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APPENDIX TO THE JOURNALS
OF THE
SENATE AND ASSEMBLY

OF THE
TWENTY-FIRST SESSION
OF THE
LEGISLATURE OF THE STATE OF CALIFORNIA.

Volume 4.



SACRAMENTO:
STATE PRINTING OFFICE.
1876.

BIENNIAL MESSAGE
OF
GOV. ROMUALDO PACHECO.

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT,
SACRAMENTO, December 6th, 1875. }

To the Senate and Assembly of the State of California:

In presenting to you, under the requirements of our Constitution, a brief statement of those interests which you are charged with maturely considering and regulating wisely, I take great pleasure in congratulating you, and the people of our commonwealth, upon the prosperity that has marked the era now closing, the general advancement throughout our vast territory of every material interest, and the fair prospects which are before us; and which you, who have assembled from every portion of the State, can do so much to enhance or to injure.

The conditions under which you meet are peculiarly favorable. The recent growth of our State has been both rapid and wholesome; no unusual flood or drought has occurred; agriculture has been successful; mining developments have increased; and no general disaster has resulted in business pursuits. Our community has met and sustained two grave financial shocks, either of which would probably have seriously disturbed the greatest money-centers of the world; and has recovered from them with a prompt and elastic strength that compels universal respect and admiration. We have passed through a peaceful revolution in a political campaign, differing in its essential features from all others, the result of which has been readily accepted; and you, who are here convened, assume the powers of government at a time when the outstanding debt of the State is less than it has been for twenty-three years, when there are great interests to foster and maintain, and when you may justly reflect, in your gravest deliberations, that you are legislating for a people characterized by ability, energy, wealth, and the spirit of justice.

The purposes of this message will be attained by presenting to you briefly a clear statement of operations under various laws, and of expenditures made in the support of public institutions. I will not be called upon to aid you in determining questions of general policy

and interest, and, while it is my duty, under the Constitution, to make such recommendations herein as the welfare of the State may seem to require, in the discharge of that duty, I shall refrain from discussing at length many subjects that will engage your attention.

It will devolve upon you to ignore or to define the relations between the State and the corporations under her laws; and to either assert the superior power of the one, or admit that of the other. Until that practical question is settled, there is no debatable ground upon which equities may be arrived at; and the questions of regulating freights and fares will create new and yet more virulent discord and strife. It is well understood that the scope of the power of the Legislature has been made a matter of open debate, that its authority has been systematically assailed, and that the higher law of contracts, the doctrine that defines control to be confiscation, the paramount authority of the National Government, and many other logical and exact shields to the abuse of power, have been invoked hitherto, and will be again.

Without offering to suggest a course of action, I desire to remind you that such questions are impossible to avoid, and dangerous to temporize with; that they are not incidental to California alone, but have convulsed the political fields, and held a marked prominence in the deliberative councils of many other States; and that a due regard for the public welfare requires their early solution and final settlement.

FINANCIAL.

The debt of the State, November first, eighteen hundred and seventy-five, was:

Outstanding bonds.....	\$3,472,000 00
Outstanding warrants.....	729,656 03
	<u>\$4,201,656 03</u>
Cash in treasury.....	619,294 38
Total debt.....	<u>\$3,582,361 65</u>

Of which two millions five hundred and forty-nine thousand dollars is owned by the State, and held by her in trust for the School and University Funds. The following will show the debt more exactly:

DEBT.

Outstanding seven per cent. bonds of 1857.....	\$51,500 00
Outstanding seven per cent. bonds of 1860.....	24,000 00
Outstanding seven per cent. Soldiers' Relief Bonds.....	95,500 00
Outstanding seven per cent. Capitol Bonds of 1870.....	250,000 00
Outstanding seven per cent. Capitol Bonds of 1872.....	250,000 00
Outstanding Funded Debt Bonds of 1872—six per cent.....	<u>2,801,000 00</u>

Total bonds outstanding..... \$3,472,000 00

CONTROLLER'S WARRANTS OUTSTANDING.

General Fund.....	\$728,559 05
Library Fund.....	25 00
Capitol Fund.....	56 51
School Land Fund.....	<u>1,015 47</u>

Total warrants..... 729,656 00

Total debt..... \$4,201,656 03.

Total debt (brought forward)..... \$4,201,656 03

ASSETS.

Bonds held in trust for the School Fund.....	\$1,737,500 00
Bonds held in trust for the University Fund.....	811,500 00
Gold coin on hand.....	523,560 00
Silver coin on hand.....	86,138 98
Legal tenders on hand.....	<u>9,595 40</u>

Total assets..... 3,168,294 38

Actual outstanding debt..... \$1,033,361 65

The State must always resort to direct taxation to pay the interest on the bonds, amounting to two million five hundred and forty-nine thousand dollars, which she has purchased and holds in trust for educational purposes. Such bonds must, therefore, be considered as constituting an actual debt, and it would seem an advisable measure to extinguish them gradually, and substitute in their stead interest-bearing securities from abroad, for the reason that the State can better afford to collect interest than to pay it. The increased taxation would be only a temporary burden, while the relief would be permanent.

For the details of expenditures, and for an exhaustive treatment of the entire subject of State finances, you are referred to the elaborate and able report of the State Controller, herewith transmitted, and to the concise and careful reports of the State Treasurer, the Loan Commissioners, and the State Board of Equalization. A careful study of these valuable papers is necessary to proper legislation upon our revenue laws, the taxation of solvent debts, and the customary appropriations of money for current expenses. In my opinion, the general appropriation bill should be prepared and completed early in the session. Such action will establish a dividing line between expenditures which are unavoidable and those which may be debated; and all measures of doubtful propriety will become more readily understood during the test of a separate examination.

Nearly five million of dollars must be derived from taxation to support our government and pay for our projected improvements during the next two fiscal years, almost one-half of which will be devoted by law to the support of common schools. We have six hundred and eleven million five hundred thousand dollars of taxable property. The Interest and Sinking Fund will require but three hundred and fourteen thousand seven hundred and forty-five dollars a year. The rate of taxation during the two past fiscal years averaged \$0.57 ⁴/₁₀₀ on each one hundred dollars; during the next two, by the estimate of the State Controller, it will average but \$0.49 ³²/₁₀₀ on the one hundred dollars, unless it be determined to further reduce the outstanding public debt.

Before closing the subject, I desire to call your attention to an asserted Indian war bond indebtedness of the State, the payment of which has been urged by the holders of it with unceasing pertinacity, and has been recommended, with but little dissent, by all who have been called upon to examine it, the latest instance being that of the Board of Examiners, at the last session of the Legislature.

If the debt is an actual one, justly due to the holders of it, the continued neglect to acknowledge it places the State in the attitude of a virtual repudiator; and if it is fairly entitled to be rejected, its status should be defined by legislation. The indebtedness arose

from an issue of bonds in the years eighteen hundred and fifty-one and eighteen hundred and fifty-two, for the suppression of Indian hostilities. These bonds differed in no respect from others of the State, the faith of which was pledged to their redemption. In the year eighteen hundred and fifty-four, Congress appropriated a large amount for their payment, but the Secretary of War, instead of trusting the State with its disbursement, elected to himself to audit the bonds and examine the vouchers on which they were issued. The conflict which ensued between him and the State authorities terminated in the passage of an Act by our Legislature creating a Board of War Debt Commissioners, and an Act of Congress requiring the Secretary to redeem, with interest, all bonds approved by such Commissioners. The Act of Congress, as construed by the Secretary, contemplated the payment of interest only to January first, eighteen hundred and fifty-four, while our legislation provided for payment in full to the date of presentation. As the Commissioners could not advertise for the surrender of bonds until September first, eighteen hundred and fifty-six, the ruling of the Secretary made it impossible to provide for the interest which had accrued from January first, eighteen hundred and fifty-four, up to that date; but, preferring to accept such relief as it was possible to obtain from the General Government, they accepted the decision, and indorsed as correct the bonds, with interest to January first, eighteen hundred and fifty-four. The coupons representing the interest between that date and September first, eighteen hundred and fifty-six, were detached from the bonds and returned to the holders; and to the holders of the issue of eighteen hundred and fifty-one, the coupons of which fell due in September and March, the Commissioners gave certificates of indebtedness for the interest accrued between January and March, eighteen hundred and fifty-four, detaching and keeping the March coupon.

It thus appears that the indebtedness consists of the interest that was due on the bonds from January first, eighteen hundred and fifty-four, to September first, eighteen hundred and fifty-six; and is evidenced by the coupons and certificates mentioned. A few bonds, also, are yet outstanding. The bonds have been provided for by legislation whenever presented, but the coupons and certificates have met with no recognition.

The entire indebtedness is as follows:

Bonds of 1851—principal	\$3,000 00
Bonds of 1852—principal	14,700 00
Coupons and certificates	172,828 54
Total	\$190,528 54

THE STATE BOARD OF EQUALIZATION.

Prior to the formation of this Board the revenue provisions of eighteen hundred and sixty-one were theoretically in force, but the constitutional requirements of equality and uniformity in taxation were practically ignored, although they were embodied in the law. Every Assessor was required to assess all property at its full cash value; but no uniformity marked their various definitions of the meaning of that phrase, which they construed by the light of local,

often, perhaps, personal interests. It was plain the burdens of taxation were distributed unevenly. The wealthiest counties escaped under the lowest rates—the poorer ones endured the highest. While the fundamental law demanded a revenue system of rigorous exactitude and uniform justice, there had developed one of false values and gross inequalities. In the report of the Board, which was created to remedy these grave defects, and has, in a great measure, succeeded in doing so, will be found a series of valuable statistical tables and suggestions relating to taxation and revenue, that are entitled to, and will no doubt attract, much intelligent attention. You are invited to consider it more especially in order that a correct knowledge may be had of the financial importance in our revenue scheme of the unsettled question of taxing solvent debts secured by mortgage upon land already taxed, the determination of which being within the province now of the judicial, and not the legislative or executive, branch of our Government, precludes me from discussing it here.

The expenses of the Board for the two years just closed amount to six thousand three hundred and six dollars and ninety cents, besides salaries; and the Controller estimates the cost of maintaining it in the future at one thousand dollars a month.

In my opinion, it should be maintained and strengthened in its labors and position, if possible. Its services have been of high character and very efficient. A strict adherence to the law is becoming the rule amongst Assessors, who can more readily maintain a spirit of impartial precision in discharging their duties, when aided by a Board competent to instruct them and sharing in their responsibilities. The State cannot afford to lose such services, nor to court the danger of relapsing into the former methods of assessment.

SECRETARY OF STATE.

The analysis given of current expenditures made through the medium of his office, by the Secretary of State, in his biennial report, together with his well-considered recommendations, are valuable and timely. The information furnishes a good basis for intelligent retrenchment. He not only aims at economy, the practice of which is always easy to suggest, but, being qualified to do so by experience, he also accomplishes the more difficult task of pointing out the way to follow it.

It has grown into an established custom to supply the various departments with almost anything that may be demanded, from the appropriation for stationery, fuel, and lights. Of course, the mere name of any fund through which the State treasury is reached, is immaterial—the result is the same; but I believe those who control the departments would be less tempted to extravagance, if each were made directly responsible for the record of his expenditures. This may be done by giving each office an appropriation for contingent expenses, and rigidly defining the term “stationery.”

The theory of charging the Secretary of State with the duty of purchasing supplies for all the officers, is based upon the assumption that a single officer, if unrestricted by law, can obtain them of better quality and cheaper than an organized Board might. The responsibility is a financial one. It is too grave, in my opinion, to remain vested in any individual officer; and the large supply of stationery

needed yearly should be purchased by contract by the Board of Examiners—competition being secured by public notice.

STATE HARBOR COMMISSIONERS.

The condition of the harbor of San Francisco demands and should be given deliberate and serious consideration. Exercising the right of direct management, the State, partly by reason of fraud that has been made notorious, but mainly through legislative neglect, has failed to either protect the harbor or improve its facilities. The report of the present Board shows a recent management prudent and able, and places at your service complete information concerning the water front.

STATE INSURANCE COMMISSIONER.

The object of the law creating this office was to establish a reasonable supervision by the State of insurance companies doing business here, and to protect the insured by compelling the financial soundness of such companies. The office is operated without expense to the State. It has been in operation nearly eight years—long enough to test its value—and the reports of the Commissioner will enable you to understand its workings and to determine what amendments the law may require.

By his latest report the following is shown in relation to fire and marine insurance companies:

Number of companies doing business in the State	80
Amount of cash capital represented	\$40,861,089 00
Amount of insurance written during the year	258,544,359 00
Amount of premiums received	4,448,033 00
Amount of losses paid	1,098,306 00
Amount of insurance in force at the end of the year	178,675,950 00

Shortly after the adjournment of the last Legislature seventeen of the foreign life insurance companies, embracing all those hitherto doing the largest business in the State, withdrew their respective agencies. This reduced the number remaining to eleven, only four of which transact a general business, the other seven being authorized to collect renewal premiums only. The retiring companies made no report to the Commissioner. I have no comments to make upon the cause of this exodus, which you will no doubt analyze and duly consider. The fact of their easy departure shows how readily, under our present laws, a foreign insurance company may obtain admission to business in the State, may issue its policies, and may withdraw from within the jurisdiction of our Courts, and so compel assurants to follow them to their respective homes to enforce contracts.

STATE LANDS.

An examination of our land system, and operations under it, during twenty years past, compels the conclusion that the reports from the Land Department have been either neglected or misunderstood by legislators, and that executive recommendations have been looked upon as perilous suggestions.

Succeeding Legislatures have been given accurate information and

conclusions of sound policy, but the laws which have been passed have been more remarkable for presenting an inharmonious contrast to such information and conclusions, than for any practical recognition of evils to be remedied.

There are but three classes of land of which any considerable sales will be made hereafter by the State—swamp and overflowed, marsh and tide, and the grant of sixteenth and thirty-sixth sections.

The swamp and overflowed grant, of which one million five hundred and twenty-four thousand six hundred and fifty-five and thirteen one-hundredths acres have been confirmed to the State, and have passed finally into private hands, has never been a source of revenue, but always a serious expense, and will necessarily continue so, the conditions of the grant permitting no other end to be attained. It is fortunate that many reclamation districts have been successfully established, that such lands are extremely fertile and valuable, and that the work of reclaiming and improving them continues to be prosecuted in many localities with energy and confidence. To such an increase of taxable property, and the resulting general prosperity of the commonwealth, the State must look for reimbursement and relief from actual losses.

The marsh and tide lands have been mainly disposed of, and a fund has been created from their proceeds to endow the University of California with an annual income of fifty thousand dollars. The Tide Land Commission has been successful in its operations, having paid into the State treasury for the Endowment Fund referred to, the sum of one million four hundred and eighteen thousand two hundred and nineteen dollars and seventy-six cents, not including deferred payments, amounting to about fifty thousand dollars.

Of the grant of five hundred thousand acres, originally given to the State for purposes of internal improvement, but diverted by our Constitution to the support of common schools, the selection of four hundred and seventy-one thousand four hundred and eighteen and seventy-five one-hundredths acres has been approved at Washington, and the remainder of the grant has been sold. The grant of seventy-two sections, and that of ten sections, have also been entirely disposed of, forty-six thousand six hundred and four acres of the former, and three thousand two hundred and three acres of the latter having been similarly confirmed; and the University of California has been vested by law with complete charge and control of the grant of one hundred and fifty thousand acres.

There remains but one grant that is only partly disposed of, and is therefore a subject that demands your intelligent consideration, and I am induced to refer to it somewhat at length, in the hope that appropriate legislation may be had in regard to it.

The sixteenth and thirty-sixth sections of each township were granted to California by the sixth section of the Act of Congress of March third, eighteen hundred and fifty-three; and when such sections fell within the lines of private grants, or had been taken by preëmptors who settled on the land prior to the Government survey, the law provided that the State should select other lands in lieu of those made unavailable from such causes. Such indemnity selections are generally known as "lieu lands."

Inasmuch as a very large portion of the agricultural and grazing

areas in the coast counties of this State was covered by Mexican grants, the State became entitled to select from the property of the General Government a large amount of indemnity or lieu lands. In eighteen hundred and sixty-one the Legislature authorized and provided for the sale of these sixteenth and thirty-sixth sections, and the lands the State was entitled to select in lieu thereof. The Act provided for the sale of unsurveyed as well as surveyed lands. Where no Government survey had been made, the County Surveyor was required to extend the Government lines over the tracts sought to be purchased. The United States authorities did not recognize the right of the State to select unsurveyed lands, and the various United States Registers refused to accept the applications made therefor by our State locating agents, one of whom was at that time established in office in each of the six United States Land Districts. In eighteen hundred and sixty-four the Legislature passed an Act suspending the location and sale of unsurveyed sixteenth and thirty-sixth sections, our Supreme Court having decided such selections were illegal. At the date of the passage of this Act suspending the sales, more than eleven hundred locations upon unsurveyed lands had been made and approved, the greater portion of them being lieu selections. In July, eighteen hundred and sixty-six, an Act to quiet land titles in California was passed by Congress. It provided for the confirmation of illegal selections made by the State under the various grants from the General Government, and disposed of to her purchasers, in all cases where, at the date of the Act, the United States had not sold the land and there were no adverse claimants under the preëmption or homestead laws. In eighteen hundred and sixty-seven the Surveyor-General of this State prepared lists of the lands claimed to be confirmed to us under this Act of Congress, and forwarded them to the proper United States Land Offices; but it appears that the Registers of such offices neglected for several years to report such selections to the General Land Office at Washington. A comprehensive law for the management and sale of lands belonging to the State was passed by the Legislature in eighteen hundred and sixty-eight. It specified and recited all our previous statutes relating to such lands, and repealed them all, substituting a system devised in the interests of speculators, abrogating State locating agents, and centralizing official powers and duties in the Surveyor-General's office. Until this law was enacted purchasers of these school lands had been restricted to three hundred and twenty acres each; but even that frail barrier against wholesale appropriation was now removed, and was not restored until the Code took effect nearly five years afterwards. A sound policy now required a thorough and immediate examination of the condition of the indemnity lands; the amount of available lieu lands at that date should have been carefully recorded, and a systematic account kept thereof, embracing whatever sections of the same class were added by new surveys of United States townships, or the final locations of private grants. The State itself should have then supplied the indemnity tracts whenever locations were made, and in no case should an applicant to purchase have been permitted to designate in his application the lieu lands to be canceled. In no other way could the State have prevented complications, double selections, frauds, and reprehensible speculation. Unfortunately no such action was taken, and it resulted that a class of speculators made a systematic business of dealing in lieu lands, using

them freely without regard for locations already made, or the undoubted rights of purchasers whose only basis of title was thus spirited away. In many instances indemnity lands were taken that had already been used—generally, but not in all cases, from locations of unsurveyed lands. Through agents at Washington a large amount of land thus selected had been listed to the State under such second locations; and as the department there will not confirm, in such cases, the location in which the lieu was first embraced, unless the State will substitute other indemnity tracts, it has often occurred that settlers who purchased their farms ten or twelve years ago through State locating agents, and secured certificates of purchase by paying for the land in good faith, have suddenly been made aware that their titles are worthless; and that the State has a land system in full operation under which her principal land officer is powerless to guard her purchasers against robbery. In view of these facts, and of the possibility of repairing in some degree the wrongs of innocent purchasers, I beg to respectfully repeat the recommendations of my predecessors in office, that no further sales of indemnity or lieu lands be permitted. Such locations should be peremptorily stopped by law; and any lieu lands now or hereafter available should be used to supply defective locations now on record in the State Land Office.

Another feature, and an important one, of the great question, is the undetermined conflict between the State authorities and those of the General Government as to the right to dispose of sixteenth and thirty-sixth sections embracing lands containing minerals. Under a ruling of the Department of the Interior the United States claims such right, and the State has asserted it by an Act approved March twenty-eighth, eighteen hundred and seventy-four. In the report of the Surveyor-General, herewith transmitted, the question is discussed and an important suggestion is made. To the same report I respectfully refer you for concise and valuable information in relation to our land and agricultural interests. It will be observed that the Surveyor-General reports the necessary expenditure, out of the fees received in his office, of ten thousand five hundred and eight dollars and ninety-nine cents, during the last two years. This expenditure is outside of any legislative appropriation, and is made under section three thousand five hundred and seventy-four of the Political Code, which seems to me to violate the spirit of section twenty-one of article five of the Constitution.

Provision should be made for a return to the State treasury, and cancellation, of all outstanding Controller's warrants drawn against the various swamp land district funds, amounting to one hundred and four thousand three hundred and ninety-four dollars and sixty-five cents. That these warrants have no place of redemption, and are not within the pale of possible payment in accordance with the statutory plan of their original issuance, is directly owing to legislative enactments which changed the entire system of swamp land reclamation, and failed to make any adequate provision for them. They are Controller's warrants, issued under authority of law. By a construction of the statutes they bear interest, and their status should be determined and clearly defined.

IRRIGATION.

It is apparent that irrigation is of paramount importance in Cali-

fornia. Agriculture, which has become our leading industry, has met with a serious check on the very threshold of a vast expansion. Experiments, partial successes and disastrous failures, in husbandry, have demonstrated the peculiarities of our soil and climate. Millions of acres of arable land must lie idle until a lavish natural waste has been checked by art. Large tracts of fertile territory, capable of conversion into countless homes, are measurably worthless, and will so remain until they are redeemed by baptism. The elements of wealth, in extensive areas of country, are held in bondage under natural laws that must be broken to create a taxable property of immense value and enduring character. In the winter our system of inland waters, converging mainly to one point, is heavily taxed to drain its great area; in the summer we easily realize the loss of the untold wealth it poured into the sea. How to properly equalize the moisture and merge the values of the seasons is a problem of great magnitude. No effective solution of it is possible, except through legislation, and no subject will demand your attention that is at once so important and so difficult.

Whether the State engages in the work directly, or so regulates the conditions that individual enterprise may safely undertake it, laws must be framed that will guard public interests, protect private property, and avoid drifting into a system that may embody immediate blessings and future calamities.

The adoption of a general plan, resulting from grave deliberation upon absolute knowledge, might be urged with ready argument, when we consider that our swamp lands have been given over to accidental and conflicting ones; that the reclamation works in one district have often ruined those in the adjacent one; and that the State has failed, through negligence, to properly discharge her trust, having neither retained control of the lands nor secured their reclamation.

It is not my purpose to urge a policy or suggest a scheme, but much of our future prosperity or adversity depends so certainly upon the method of dealing with this question that I desire to give it a prominence now that it might attain too late if neglected.

The overshadowing early importance of mining interests gave to local customs relating to water rights the dignity and effect of laws, that were pliable as the streams they gave away. Simple appropriation constituted a vested right. Now, in the interest of agriculture, and in the broader interests of the commonwealth, laws are required that will prevent the private ownership of inland waters, except upon such terms as will insure their beneficial public use. Nine years ago Congress, in recognition of our peculiar industries and requirements, granted the right of way over lands of the General Government to distributors of water, and ceded the right of possession of water privileges upon our own statutory terms and local regulations. The same body might now be memorialized to give the State, in aid of irrigation projects, her remaining interests in the public domain within our boundaries; and might properly be urged to give us absolute control over the inland waters, excepting the navigable streams. But, even with these objects attained, a statutory definition of vested rights, that would suppress mere speculative appropriations, and yet avoid the inflicting of injustice or actual confiscation, would be very difficult to frame.

If the State, indeed, should enter upon the great work, justice and

safety would demand that all questions of property between herself and individuals be settled by a commission; that a series of exhaustive surveys be made as the preliminary step; and that the aid of the best engineering skill be invoked, both in planning the work and in its progress. But it is probable that private capital alone will be relied upon, and will be invited and encouraged, by appropriate enactments, to embark in the enterprise. Such legislation may be generous, without neglecting to be wise. No franchise in perpetuity should be granted; none that cannot be always regulated in terms, and retired at any time by equitable process. Under the provisions of any scheme, the separate ownership of land and water must often be the case, and may become the rule. It never should be in the power of either to dictate terms to the other. The right of every section to its natural pro rata of water, and to participate in the benefits of any plan that may diminish or increase it, should be recognized, and, if possible, guarded.

I am aware that capital is sensitive, and is disposed to exercise the right of power in demanding assurances; but the body politic is becoming equally so upon questions of such magnitude as this, and it is better that inherent principles of justice should be recognized quietly at the outset, than established awkwardly afterwards.

OUR UNIVERSITY.

The University of California has been in operation six years. Beginning with provision for the lowest class only, and for special students, a class was added each year until eighteen hundred and seventy-two, since which time the regular four classes have been provided for, and also a number of students, not candidates for a degree. The attendance has steadily increased. There were forty students the first year; seventy-eight the second; one hundred and fifty-three the third; one hundred and eighty-five the fourth; one hundred and ninety-one the fifth; two hundred and thirty-one the sixth; and at present there are three hundred and twelve, of whom two hundred and seventy-one are candidates for a degree and regular members of the four classes in the various colleges.

The staff of instruction, necessarily increasing in proportion, now numbers thirty, besides the graduate and student assistants, and will require additions in the near future to meet the demands made upon it.

There are six colleges in operation at Berkeley, organized under the requirements of section one thousand three hundred and eighty-six of the Political Code. In each of these full courses are provided for, and in the College of Letters there are two full courses for classical and literary students. The Annual Register of the institution, copies of which will be laid before you, explains the various courses. It is contemplated to establish post-graduate courses, involving higher and more complete instruction, and enabling scientific and literary students to enter professional life fully prepared for its active duties and demands. Such provision is incident to the nature of a true University, and is indispensable. Adverting once more to the problem of technical and industrial education, it gives me pleasure to recognize that scientific studies claim and receive much more attention now than formerly in the University, which has five separate Colleges of Science—those of Agriculture, Mechanics, Mining, Engineering, and Chemistry.

The modern languages receive unusual attention in all the colleges, and the time-honored classical course is fully taught. A modern literary course, designed especially for journalists, teachers, and men in public life, giving special attention to living languages, to literature, to political economy, and to social science, attracts many students. At the close of the last fiscal year, the total sum drawn from the State treasury to support and aid the University from its beginning, and upon its endowment for the future, amounted to one million five hundred and fifty-five thousand four hundred and twenty-six dollars and thirty-five cents. It has an endowment of fifty thousand dollars a year, paid by the State, and the grant of one hundred and fifty thousand acres of land will produce seven hundred and fifty thousand dollars capital, yielding an annual income of forty-five thousand dollars. This total revenue of ninety-five thousand dollars is less than the estimated expenses for the current year, which the Regents place at one hundred and twenty-eight thousand dollars. In considering the condition of the institution and its demands, it is only just to assume that the Regents have steadily held in view the interests of both the State and University, have sought to utilize the best methods and appliances, and have aimed to satisfy the reasonable demands of all classes of our citizens. To supply the higher educational wants of the State, they have put in operation extensive machinery that is already complex and costly, but must be judged in its relation of cost to value by comparing it with that of similar institutions throughout the world. The machinery requires careful adjustment; its working qualities depend upon judicious and delicate management. A University, whose life is for ages, needs a guidance at once conservative and progressive. It cannot safely sustain any shock of injudicious pruning, nor easily endure the loss of that confidence and coöperation which can be secured only by stability and a steady growth. Like all young institutions, its demands for new accommodations will be constant in its early years. The two buildings at Berkeley are already crowded; more recitation and lecture-rooms are needed; the assembly-room for use on public occasions is too small; there is no adequate space for the library; and better accommodations are needed to display important collections illustrating the natural sciences.

Much of the future welfare of California depends on the higher culture of her sons and daughters. There is nothing to prevent our establishing a University that will be peer to any in the world. It is better that our students should find it at home than seek it abroad.

Any change in any feature of the institution or its business management that is required by public interests, should be made without hesitation; but no such change should be made without being well considered, lest its high character should be injured, or its usefulness impaired.

THE STATE NORMAL SCHOOL.

The appropriation of twenty-five thousand dollars, made in March, eighteen hundred and seventy-four, for the completion of the Normal School building, was enhanced more than one thousand dollars by the proceeds of delinquent taxes and materials sold, and has served to virtually, though not entirely, complete it.

The report of the Board of Trustees shows the details of expenditures and describes the work done. The institution is in a flourish-

ing condition and is an indispensable feature in our educational system. It is well worthy of a liberal support, and the suggestions of the Principal, in his report which accompanies this, deserve your careful consideration.

If one or more additional schools of this class could be established the liberal provision made for supporting our common ones would certainly be more effective. Any failure to supply public schools with teachers who are qualified and skilled in their profession is a neglect of duty resulting in a waste of money and the irreparable loss of opportunity. About one-fifth of the twenty-seven hundred teachers required by our schools last year had been trained and prepared for their duties; the rest were teachers by accident. True, they passed the required examination, but an examination is not a course of training. The natural dignity of the profession of teaching may not be increased by legislation, but the State, by giving it the possible elevation that lies in a just recognition, may do much to encourage those who are in reality proficient, and at the same time guard one of her own most vital interests.

COMMON SCHOOLS.

No especial argument is needed to emphasize the importance of giving the most thorough attention to our system of common schools—to which the State Normal School is but incidental, and the University of California only a final avenue to finished education. Together they will draw from the State treasury, in the next two years, two millions four hundred and twenty-six thousand six hundred and forty dollars, or about one-half the revenue derived from taxation; and if the school census next taken shows an increase of more than four per cent., the amount will be increased in proportion.

In the last two years, twenty-nine thousand nine hundred and fifty-three children have been added to our school population, but the average daily attendance of actual pupils has increased only eight thousand five hundred and sixty-six. Three hundred and twenty-two schools have been organized, in one hundred and seventeen new districts; six hundred and thirteen thousand seven hundred and forty-six dollars and sixty-one cents was expended in building and furnishing two hundred and seventy-four school-houses; and, while school expenditures have increased five hundred and forty-four thousand eight hundred and eighty-five dollars and nine cents, the school property has enhanced in value one million eleven thousand two hundred and sixty-two dollars and eighty-five cents, and the average of school terms has been lengthened 1.33 months in the year.

The method of apportioning school money adopted in eighteen hundred and seventy-four is a visible improvement upon the former one, and has enabled those who reside in sparsely settled districts to enjoy the advantages of a system that would be defective indeed if only centers of wealth and population reaped its benefits. The Superintendent, with a view to removing inequalities that yet exist, suggests in his report a more effective manner of apportionment. To that, and to the other features of the report, and especially to the chapter relating to technical and industrial education, you are respectfully referred for valuable information. We must aim at practical results, as well as furnish the elements of learning to children, if we would keep abreast of other civilized communities, or

surpass them; and if we would do justice now to the future that we are in a measure creating, the training and discipline of minds and hands must join, embracing the solid substance, and not polished veneering alone. There would be less crime and misery, less convict labor wasted, and fewer pensioners on the public bounty, if the opportunity were given to many to properly learn even the rudiments of those arts and sciences which enable a man or woman to command fair wages for honest labor. Compulsory education may be projected or enforced with a nearer approach to justice, and succeed better as an experiment under free government, when a system is perfected that provides something better than an arbitrary curriculum, and does not condemn by ignoring the difference in developing tastes and capacities. It is within your province and power to absolutely dictate what shall be taught in the schools. Our educational scheme is now in such condition of progress that it is fairly pliable, and no injury to it could result from any wise change in details. Too much thought cannot well be given to the problem, any appropriate discussion of which must be elaborate.

TEXT-BOOKS.

The annual cost to patrons for text-books in the schools is something more than three hundred thousand dollars. The profits from this patronage have been constantly sought with energy by different publishers, but neither the multiplicity of books nor the rivalry of agents has been beneficial to the schools. The Superintendent asserts that a slight change in the system of instruction resulted in reducing the expenditure for such books, one hundred thousand dollars annually.

THE STATE LIBRARY.

The Trustees of the State Library have expended fifteen thousand six hundred and eighty-seven dollars and seventy-two cents for books during the past two years. There are thirty-seven thousand and four volumes now in the library, which is in a fair way to become very complete in every department.

ASYLUM FOR THE DEAF AND DUMB AND THE BLIND.

Two years ago the Directors and Principal of this institution reported a most gratifying state of affairs. A public investigation of its management, made by men selected for their pronounced abilities and the integrity of their characters, had vindicated the wisdom and honesty of its managers and had enhanced rather than impaired the usefulness of the institution. The asylum was free from debt. The appropriation for its support had been made to answer its every demand, and the care and education of the unfortunate pupils was amply provided for. By the reports of the Directors and Principal, of the events and operations of the past two years, it will be perceived that it has become necessary to make a new and expensive provision for the wards of the State, whose helpless and deserving condition render their maintenance and practical education our imperative duty.

On the seventeenth day of January last the asylum, which was a beautiful structure of stone, was totally destroyed by fire. Fortu-

nately no loss of life was involved in the catastrophe, and when the infirmities of the pupils are considered, it is a cause for congratulation that the disaster encompassed property only. The provisional arrangements for the care and shelter of the inmates, and the subsequent erection of a temporary asylum for them by the Directors, are set forth in their report. The cost of the latter, the erection of which was undoubtedly a measure of prudence and sound economy, was twenty-seven thousand and three dollars and one cent. It has been constructed with a view to utilization in connection with the new asylum that is demanded by an enlightened policy, and the duty of providing for the construction of which devolves upon you. In addition to a commensurate appropriation for such a structure as the peculiar nature of the institution and the rapid increase of our population, with the inevitable corresponding ratio of unfortunate children, requires, the Directors ask for seventy-four thousand dollars, for purposes of maintenance, and for an immediate payment of the twenty-seven thousand and three dollars and one cent advanced for the construction of the temporary building. Believing that you will feel assured of performing a duty, and not conscious of bestowing a charity, in providing amply and without unnecessary delay for the proper support, shelter, and instruction of those who cannot provide for themselves, I commend the subject to your immediate attention.

STATE BOARD OF HEALTH.

That the duties intrusted to the State Board of Health have been discharged conscientiously and with ability, is clearly shown by their report. That such duties are of very high character, and their thorough performance of acknowledged value in older communities, and of special value in a growing State, cannot be wisely doubted. The report embodies several excellent recommendations. Among other suggestions is one, presented in the form of a prepared bill, for the suppression by law of fraud in the practice of medicine and surgery. No intelligent observer doubts the propriety of effective legislation to that end, and I take pleasure in commending the report to your careful perusal.

THE STATE PRISON.

The history of our State Prison, its management for twenty-five years, and its present condition, contribute to the general record of prisons a chapter valuable only as a positive display of evils to be avoided. By reason of experiments at home, we are competent now to decide what ought not to be done; if the record of similar institutions abroad will enable us to conclude what system should be adopted and followed, such records should be appealed to and carefully studied.

In eighteen hundred and fifty-one, the Legislature leased the prison for ten years. Before such lease terminated, the plan of managing it through Directors was inaugurated and abandoned. It was again leased in eighteen hundred and fifty-six, and in March, eighteen hundred and fifty-eight, the State resumed possession.

Its support to the close of that fiscal year had cost the public one

million forty thousand two hundred and five dollars and seventeen cents; it has since cost two million four thousand one hundred and nineteen dollars and sixteen cents, and the estimate for the next two years amounts to two hundred and forty-five thousand and four hundred dollars. These figures include the cost of transporting prisoners. The average expense has been one hundred and twenty-one thousand seven hundred and seventy-two dollars and ninety-seven cents, annually, for twenty-five years. Accepting the estimate of the Controller that the prison improvements are worth two hundred and sixty-one thousand one hundred and ninety dollars and fifty-six cents, the loss to the State amounts to one million seven hundred and eighty-three thousand one hundred and thirty-three dollars and seventy-seven cents.

To attribute this loss to either negligence or extravagance in managing the finances and government of the prison, is to wrongfully transfer the responsibility from Legislatures to a series of executive officers who have continuously done the best that could be done under the laws. A careful study of the prison reports made during twelve years past, warrants me in asserting that its affairs have been usually managed honestly and intelligently; and that the failure to bring its expenses within reasonable limits is owing neither to fraud nor want of capacity in the officers. What is required, is more prison space, improved facilities for classification, increased shop-room, better mechanical appliances, and the establishment of such conveniences in work that contractors will be ready to employ all the able-bodied convicts at fair wages. In the two years just closed, the average number of prisoners has been nine hundred and ninety-one. The number there now is one thousand and seventy-five. Only forty-two and one-half per cent. of these have been employed by contractors during the past year, and the price obtained has been but fifty cents a day for each. Better prices can be obtained, and should be, but not until the improvements named have been made.

In the able report of the Resident Director, which will accompany this, the subject is fairly analyzed and presented clearly. He explains why the earnings of the prison have been less than half the current expenses of running it. The reason lies in the idleness of convicts, enforced on them by surrounding conditions. Commenting on the cost of maintaining the institution, he says:

"The above statements show, I think, a creditable degree of economy in the management of the prison. I do not assert, however, that by close attention to details, rigid economy in every department, and a reduction, perhaps, in the salaries of some of the officers, and a diminution in the number of the guards, the daily cost per man cannot be reduced a cent or two below the present rate. But I do not think that the Board of Directors and officers of the prison are justly chargeable with any gross extravagance in its management. The cost per man in the Ohio and Massachusetts State Prisons, two of the most successfully managed institutions of the kind in the United States, has been about the same as in this one. The failure of the management, if there has been failure anywhere, has not been in its extravagance, but in its inability or neglect to utilize the labor of the prisoners."

It is no part of our duty to make merchandise of crime, and the State has no speculative interest in convict labor to foster or develop; but in dealing with criminals, labor is one element of reform, and it is certainly right that they should be made to bear the cost of their custody and support, if it can be done without violating any principle of humanity. A convict, who has been made to labor during his imprisonment, is apt to return to society a better man. He has gained or improved a knowledge, more or less complete, of some useful trade or industry that will enable him to supply his needs without resorting to the cunning that springs from ignorance. The practice of leasing the labor at nominal rates I believe to be pernicious in effect and wrong in principle.

The peculiar status of such labor will prevent any contract relating to its use from containing the essence of a fair business arrangement; but a price ought to be obtained that has at least some element of proportion in it. I recognize and regret the existence of a prejudice against the employment of convicts in industries that are believed to place them in competition with free labor. This feeling is, in some degree, responsible for legislative neglect to provide proper machinery for utilizing the labor of criminals. If such employment is conceded to affect seriously the demand for skilled workmen, and thus deprive any class of honest men of deserved support, the problem becomes impossible to solve. I do not think it will have that effect in California. The increasing demand here for the products of every species of mechanical industry makes the market an elastic one; and the ruling wages of free labor can be lowered only by general causes. The especial fact of competition by prison wares in a few branches of manufacture may be found to create individual hardships, but the same result may be justly charged to any portion of the working machinery of our government. A decrease in taxation would be a general good to all our citizens. If the prison were made to support itself, one-twentieth of the revenue now required could be dispensed with. Our failure thus far to make it so is by no means exceptional. The penitentiary of Kentucky has been in operation since seventeen hundred and ninety-eight. The State managed it till eighteen hundred and twenty-five, at a constant and increasing cost. A change in plan produced no better results for thirty years. In eighteen hundred and fifty-six another system was adopted, but it has since that date been even a greater expense than before. It cost Nebraska five hundred and thirty-eight dollars to support each of its prisoners last year. During fifty-eight years' experience Georgia has paid an average of two hundred and nineteen dollars a year for each convict. The three prisons of New York contain about three thousand criminals, who cost the State five hundred thousand dollars annually. None of the prisons in Iowa, New Jersey, Florida, Virginia, Oregon, Montana, Wisconsin, and many other States are self-sustaining; and that of Maryland, with six hundred convicts, became so two years ago for the first time in its history.

But in contrast to these facts are others. The prisons in Tennessee and Texas are leased advantageously—the latter containing even a greater number of convicts than our own. That of Missouri, which contains eight hundred and forty-seven inmates, and cost the State two hundred and sixty-two thousand four hundred and twelve dollars and fifty-two cents for its maintenance in eighteen hundred and

seventy-two, was leased the following year, and has since been fully self-supporting. In the States of Maine, Rhode Island, Connecticut, Massachusetts, Ohio, Indiana, and Michigan the penitentiaries have become sources of actual revenue. The Governor of Michigan, in his last message to the Legislature, says: "The convicts not on contract have been kept employed, so far as possible, in improving the prison yard and State lot. The average price per day of convict labor, for eighteen hundred and seventy-four, was sixty-four and three-quarters cents. The experience of the past six years is to my mind abundant proof that a well-conducted prison can and should always pay its current expenses, and aid in the support of those who are dependent upon convicts, that are now often supported by the public."

These successes in communities remote from each other are not due to accident, but are the result of legislative wisdom. The outlay required to place the prison at San Quentin in condition to become a relief rather than a burden to the State would be a wise expenditure. As long as it remains an incubus upon the public treasury, it will continue to be impossible to classify the prisoners with a view to reforming a portion of them. Such reformation is the true object of prison discipline. A State that is content to merely punish crime and assert the principle of revenge, forgets the spirit of the age, and violates the conscience of civilization. The dangerous classes recruit their leaders from ill-regulated prisons. There is no medium between proper discipline and absolute neglect. A prison either resolves itself into a systematic, humane, and effective crucible of reform, or remains a school of crime. Society cannot afford to educate young men to war against it. If it were a question of mere economy, the true solution would be found in providing amply for the constant employment and proper instruction of every criminal. There are now at San Quentin one hundred and four boys whose ages range from fourteen to twenty years, and five hundred and twenty-six of the convicts are less than thirty years old. Among those older in years, are men young in crime. Many of the prisoners are hardened offenders, but a proportion at least are there as much through misfortune as vice. Eight hundred and fifty-four of them are serving their first term. Such is the crowded state of the prison, that it is impossible to prevent promiscuous intercourse. With cell room for only four hundred and forty-four, the remainder must be confined at night in the nine other rooms—an average of fifty-six to each room. Remarking these facts, in the report alluded to, the surgeon of the institution says:

"An earnest and enlightened effort ought to be made for their reformation. But it is almost, if not quite, absurd to expect reform, either morally or physically, under such circumstances. Good constitutions become enervated and decay. Feeble physical organizations fail to recuperate, but rather continue to decline, and an improvement in morals is entirely out of the question."

My experience in managing the prison has convinced me of the importance of urging upon you the duty of making it an especial object of study. I believe a permanent Board of Control to be a necessity, almost, to the success of any enlightened prison scheme. I think it may be made to support itself, and I am convinced that the

pervading spirit and the main object of its management should be the reformation of criminals.

THE BRANCH STATE PRISON.

Work was commenced on this structure in November, eighteen hundred and seventy-four, and the contractor apparently abandoned it in September last, leaving it in such condition that it is of no practical use to the State. The Directors, following the law, had contemplated and fully expected that at this date at least one hundred and fifty convicts would be provided for at that point, and would be perhaps sustaining themselves by laboring in the valuable stone quarry. The Directors have prepared a special report relating to the discharge of their duties under the law, the information contained in which will enable you to clearly determine the equities in the premises, and to decide by what motives of policy the State should be guided. Of the one hundred and seventy-five thousand dollars appropriated, there has been expended eighty-eight thousand five hundred and eighty-two dollars and thirty-six cents, and liabilities have accrued amounting to nineteen thousand seven hundred and eighty-two dollars and three cents more, leaving sixty-six thousand six hundred and thirty-five dollars and sixty-one cents, all of which will be exhausted, if at all, by the contract referred to, and incidental expenses under it. In my opinion, at least three hundred and fifty thousand dollars, in addition to the appropriation made in eighteen hundred and seventy-four, will be necessary to complete the structure.

PARDONS.

In charging the Executive with the duty of preventing possible injustice to criminals, and vesting in him the "quality of mercy" on behalf of the State, the Constitution has imposed a trust that is a source of constant pain and embarrassment.

To maintain a due respect for the power of the law, to avoid weakening the force of example, to refrain from violating any principle of justice, and yet to decide impartially upon appeals for clemency, is difficult beyond the comprehension of those who lack the experience. Our criminal jurisprudence is so flexible in the rule of sentences that convictions for precisely similar crimes are followed by penalties disproportionate in different cases. Prisoners thus unevenly punished, often work side by side, and the most unfortunate one, who may be also the most deserving, cannot but realize the comparative cruelty of his sentence. Judges and juries frequently unite in soliciting the Executive to undo their work. Prosecuting officers regret their own successes, prosecuting witnesses become repentant, and the victims of criminal acts obtain satisfaction, before the term of a sentence has expired—sometimes, almost, before it begins—and they join in a petition for a pardon. It is not uncommon for convictions to be had upon most meager testimony, and sentences occasionally seem to reflect in their severity an elicited public sentiment. To the punishment of a convict is added, often, not alone the pain, but also the misery and actual destitution of the innocent, for whose wants he would provide if released, and this, too, in cases where crime has been the result of passion, not dishonesty. The tears, importunities, and expensive efforts of friends and rela-

tives are supplemented by petitions fairly entitled to great weight by reason of the social standing and property interests of their signers. Pardons are applied for almost hourly. In deciding upon the applications, it would require something more than qualities of mind and heart merely human to avoid errors; but I believe such errors have been quite as frequent in denying the petitions as in granting them.

If a Board were organized with authority to examine every application for pardon, and transmit it to the Governor with recommendations for his action in the premises, the final decision could be made more readily, perhaps more justly. Legislative recommendations for pardons are necessarily of little value.

CAPITAL PUNISHMENT.

Since the law took effect, two years ago, giving the jury the right to affix either the penalty of death or that of imprisonment for life, in capital cases, there has been twenty-nine convictions for murder. Of these, eighteen were sentenced to imprisonment, and eleven were condemned to die—eight of whom were executed. To the Executive, before whom all such cases come for review, this law is a decided relief; and it has probably made the certainty of punishment greater.

STOCKTON INSANE ASYLUM.

The reports of the officers of the Insane Asylum at Stockton show that the north wing of the building, occupied by the females of the institution—the construction of which was authorized by the Legislature of eighteen hundred and seventy-two—was finished about eighteen months ago. One hundred and thirteen thousand dollars was appropriated to build and furnish it, but the Directors completed the work with only eighty-eight thousand five hundred and eleven dollars and thirty-three cents, and the surplus of twenty-four thousand four hundred and eighty-eight dollars and sixty-seven cents remains in the State treasury. This resulted from economy and commendable adherence to the law. Such management, being without precedent or parallel in the history of our State, is as remarkable as it is satisfactory.

In the same spirit of careful attention to public interests, the expenditures of the institution have been kept within the limits of the appropriation for its support. The cost of maintenance, for the last two years, has been only forty-three and one-half cents a day for each patient, while the average daily expense of each patient maintained in similar institutions throughout the United States, as shown by a tabular statement in the report of the Superintendent, is sixty-eight cents. A consideration of the details of management, which show that the unfortunate inmates have been furnished with at least all the ordinary comforts of life, gives this financial showing a quality of peculiar value. While no generous or even thoughtful citizen can be disposed to withhold the protection of government from those whom misfortune has rendered incapable, or deny the bounty of the commonwealth to helpless men and women, it is yet gratifying to know that such protection is given judiciously, and such bounty honestly applied.

The excessively crowded condition of the asylum has embarrassed its operations during the last two years. On the first day of last July

it contained thirteen hundred and two patients, six hundred and fifteen, the largest number ever received during the same period, having been admitted during the year. Yet the results have been creditable and quite satisfactory. General health has prevailed among its inmates; the rate of mortality has not increased notably nor has the ratio of recoveries diminished. The asylum at Napa was not projected until it was absolutely needed. Its completion will greatly relieve this one.

It gives me pleasure to refer you to the report of the Superintendent, Dr. G. A. Shurtleff, for a complete exhibit of asylum affairs and statistics, and to direct your attention to an able and interesting paper therein, explaining the causes of insanity and of the large number of lunatics in California.

NAPA INSANE ASYLUM.

The insane asylum at Napa is well advanced toward completion, the north wing being now ready for the reception of patients, with capacity to accommodate one hundred and thirty. There has been expended in its construction six hundred and eighty-three thousand five hundred and seventy-one dollars and fifty-two cents, and contracts are now let that will require much more. The structure is admirable in every detail, and affords a relief to the asylum at Stockton that has for many years been greatly needed. The report of the Directors will be laid before you.

THE STATE CAPITOL.

Our State Capitol is virtually completed. In eighteen hundred and seventy-four, the stone balustrade and the statuary were placed in position, and but little work has since been done on the building or grounds beyond giving them requisite care and attention. Expenditures for these purposes have amounted to seventy-eight thousand three hundred and eighty-six dollars and ninety-three cents, making the total cost, to date, two million four hundred and forty-nine thousand four hundred and twenty-nine dollars and thirty-one cents. The grounds are of peculiar beauty and value. Being provided with ample facilities for irrigation, the trees, shrubs, flowers, and lawn grasses continued to thrive throughout the warm summer, and were a constant centre of attraction to visitors and residents. The successful management of these beautiful grounds argues that if similar attention were given to those of the Capitol Park, which lie adjacent and unimproved, the State would soon be the owner of public grounds of rare extent and magnificence, and could establish, without undue extravagance, a botanical garden of great value.

In the original design of the building, a bronze statue after Powers' "California," was intended to surmount the apex of the dome; and a flight of stone steps was designed to approach the main entrance. Neither feature of the plan has been followed. The first would cost fifteen thousand dollars; the latter, about forty thousand dollars. Suitable flights of steps for the terraces, constructed of iron or granite, would cost about fifty thousand dollars. The building requires to be painted, to preserve it.

The law enacted by the last Legislature, providing permanent

employés about the building and grounds, has been excellent in operation, and should be continued in force.

NEW STRUCTURES.

By an Act, approved March thirtieth, eighteen hundred and seventy-four, the Capitol Commissioners were required to construct, in separate portions of the building erected for the Executive Mansion, a State Armory and a State Printing Office; eight thousand dollars being appropriated for the former, and twelve thousand dollars for the latter.

By their report, it is shown that both provisions of the law have been carried out. A safe and commodious armory was completed within the appropriation, and the State no longer pays a yearly rental of one thousand two hundred dollars for that purpose.

In constructing the printing office, ten thousand and fifty-nine dollars and forty-five cents has been expended, and the remaining one thousand nine hundred and forty dollars and fifty-five cents will be required to complete it. The purchase and placing of necessary steam machinery was an important item of expense. It was built for the purpose, and was fully tested before accepted. Under the law, the office should be furnished and ready for operating by the first Monday in December, eighteen hundred and seventy-five, and all possible measures have been taken to attain that object. But the time within which the Board were required to furnish the office out of the twenty thousand dollars appropriated therefor, was proved by the test of a trial to be hardly sufficient, and a slight delay may occur in consequence. The contracts for type, furniture, presses, and other materials, have been awarded and entered into, and it is expected to create a complete office within the legislative estimates.

The State printing has always been a disproportionate item in our current expenditures. It would be idle now to discuss the reasons or display the causes therefor. The hope, however, may properly be expressed, that a great saving to the State will result from the establishment of this new department. The Controller estimates the cost of supporting it for the next two years at one hundred and twenty-four thousand eight hundred dollars, which is fifteen thousand six hundred and seventy-four dollars and ninety-seven cents less than was paid for State printing in the twenty-sixth fiscal year alone.

In this connection, it is but just to mention that the duties of the State Printing Expert have been onerous, and have been performed with ability, skill, and integrity; and to call your attention to the manifest propriety of allowing to him the salary that was duly appropriated for his services. A provision of the Code, conflicting with the appropriation, deprived him of two-thirds of his salary, all of which he certainly earned.

NATIONAL GUARD OF CALIFORNIA.

The Adjutant-General reports the companies of the National Guard to be well supplied with regulation uniforms, armed for the most part with improved weapons, and in a present state of good efficiency. The issue of new arms and ordnance stores was secured in May last, the State having been fortunately enabled, through the efforts of distinguished citizens, to turn over to the Federal Government a large quantity of unserviceable material and obtain credit for it.

In providing for the militia the State has hitherto borne but a portion of the cost of securing to her citizens most valuable knowledge and discipline, much of the expense having fallen upon the members and officers. The existence of a trained militia is a strong moral force, acting always as a conservator of the public peace. The absence of it is an incitement to great social disorders. It is both unjust and unwise for the State to supply merely scanty equipment and meager facilities to a class of citizens who voluntarily assume studies and labors they could scarcely be bribed to undertake, and who would constitute her main reliance in any grave emergency. There are deficiencies in the Military Fund, dating back to eighteen hundred and sixty-nine, that should be paid. Believing that any failure to assert the sound policy of perfecting the organization of the National Guard would jeopardize great interests, and that any neglect to make liberal appropriations for that purpose would be parsimony, not economy, I recommend the subject to your especial attention.

YOSEMITE VALLEY.

The report of the Commissioners to Manage the Yosemite Valley and the Mariposa Big Tree Grove, is unusually complete, and will enable you to decide upon and define what shall be done by the State in fulfillment of an accepted trust. A commission was appointed, under the Act of March twenty-third, eighteen hundred and seventy-four, to determine the values of the properties of the several claimants to land in the valley, which made majority and minority reports to the State Board of Examiners. Neither report was approved; but the Board, after a full examination into the subject, made awards that are believed to be just, and certainly ample, to the various property holders, expending fifty-five thousand dollars of the sixty thousand dollars appropriated for the purpose.

The Commissioners think it necessary to expend, during the next two years, the sum of twenty-six thousand five hundred dollars in preserving the valley, and in commencing the work of improving it in accordance with some definite plan. By the showing in their report of debts already incurred, and of the necessity of outlining and following a system in the discharge of their duties, the amount asked for seems moderate. Eleven years have now elapsed since the State accepted the gift and its obligations, and the little that has been accomplished towards making it the attraction contemplated in the law of Congress, is due rather to the public spirit and energy of the Commissioners than to considerate legislation. The condition of the grant and its requirements are commended to your earnest consideration.

FISH CULTURE.

The Commissioners of Fisheries have repeated the experiment that failed in eighteen hundred and seventy-three, by reason of a railroad disaster, and have succeeded in bringing an aquarium car across the continent. Many varieties of the finest fish common in Eastern waters have been added to our own, and our rivers have been again stocked with salmon. The value of this addition to our food resources is very great. In comparison with it, the appropriation of two thousand five hundred dollars a year is trifling. It is only

recently that the real importance of cultivating fish has gained public recognition. Considering that every acre of water may be made to produce as much as any acre of land, and that actual wealth is created by stocking our rivers and lakes with fish for the common benefit, the recommendations made by the Commissioners in their interesting report should receive your careful attention, especially so, when it is remembered that they have given, and are willing to continue, their valuable services to the State, without pecuniary reward.

THE CENTENNIAL CELEBRATION.

The approaching anniversary at Philadelphia is growing in interest to the States of our Union, as evidenced by the preparations in that city, and the impetus already given it by the National Government, and the expected participation by many foreign countries.

Commissioners from each State have been appointed to superintend the exhibit made by their State, and to promote in their localities the interests of the occasion.

Situated as we are, remote from the great centers of population and trade, it is of vast importance that a creditable exhibition should be made by us at this national representation of our industries.

The products of our soil, manufacturing progress, and inventive genius of our citizens shown here will serve to remove prejudice and error as to the real condition and resources of our State. We have enough to exhibit, and private hands are already at work collecting and arranging, but of necessity the chief encouragement and aid must come from the State Government itself. It is unnecessary to remind you of the merits of the event, or stimulate you to action by recounting the memories of the centennial year; they crowd upon us at the mention of the name.

At the celebration of the hundredth anniversary of national independence, California should be represented as her wealth and grandeur of resources demand she should be. I therefore earnestly recommend that you make such appropriation for this occasion as is commensurate with the importance of this coast, and in keeping with that spirit of patriotism and liberality for which our citizens and commonwealth have ever been distinguished.

CONCLUSION.

It is the theory of our Constitution, and its practical operation, that the Legislature, the nearest representative of sovereign power, holds absolute control of the public revenues. There can be no extravagance in government without your express sanction. During the next four months you write the history of the State treasury for the ensuing two years. The supreme law fixes the salaries of a few elective officers; excepting those, it is your privilege to dictate what expenditure shall be made. A multitude of interests will demand your attention. Those which are private will be carefully explained by volunteers. Those which are public require study and work to properly understand. Special legislation, as a rule, is a general evil. I trust the book of statutes that you will create, and that must remain our record as a people, will be the object of just pride and confidence.

R. PACHECO,
Governor of California.

APPENDIX TO GOVERNOR'S MESSAGE.

LIST OF PARDONS FROM STATE PRISON, GRANTED BY GOVERNOR BOOTH,

From November 13th, 1873, to February 27th, 1875.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Wilbur F. Dougherty	Yuba -----	Manslaughter ----	January, 1872---	Seven years.

DECISION.—Whereas, the prisoner was tried twice, the jury in the first case disagreeing; the Judge before whom he was tried, nearly all of both juries, and a large number of respectable residents of Yuba County have signed a petition for his pardon; the attorney who prosecuted the case states in a letter to me that he is convinced that there was no homicidal intention, but that the killing was the result of criminal carelessness, for which the punishment suffered is a sufficient atonement; the attorney who assisted in the prosecution states to me that the killing may have been accidental, or may have been the result of a frenzy of jealousy and mortification amounting to insanity, and that there certainly was no deliberate criminal intent; and the prisoner had always been a young man of good habits, and his conduct in prison has been unexceptionable. November thirteenth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
George W. Hannan	Tulare -----	Grand larceny and robbery.	July, 1870-----	Twenty years.

DECISION.—Whereas, the prisoner at the time of his offense was a boy of eighteen, was tempted by poverty, and was influenced and misled by a criminal of mature years; and when arrested confessed his guilt and was sentenced without having had either counsel or a trial. And, whereas, the circumstances of the robbery were commonplace, not being characterized by violence, while the sentence was the reverse, being entirely disproportionate; and the reformation and present good character of the prisoner is fully attested by the prison officers, after his confinement of more than three and one-half years; and it seems to me that the punishment is sufficient, and that his restoration to liberty on Thanksgiving Day will benefit him without injuring the State or endangering the good of society. November twenty-fourth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Mary McCauley, alias Dugan.	San Francisco--	Grand larceny----	August, 1872----	Four years.

DECISION.—Whereas, it appears to me from the written statement of the District Attorney who prosecuted the case, and from the affidavits of convicts who claim to have perpetrated the crime, that grave doubts exist as to the guilt of the said Mary McCauley, who is in all probability innocent of the crime of which she was convicted, and for which she is now imprisoned. December third, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
H. C. G. Rotger	Mariposa	Murder, 2d degree	July, 1867	Ten years.

DECISION.—Whereas, the Legislature recommended his pardon two years ago, notice of intention to apply for which has been duly published without eliciting remonstrance from any source; his pardon has been petitioned for by numerous residents of Mariposa County, and he is an old man, whose punishment has been sufficient, and whose pardon is asked for by the Judge who tried and sentenced him. December ninth, eighteen hundred and seventy-three.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Thomas Enright	San Francisco	Forgery	January, 1870	Five years.

DECISION.—Whereas, the prisoner was convicted of forging an indorsement on a draft on the Bank of California, which bank sustained the loss; and the officers of the bank, petitioning for his pardon, state that he is not a professional forger; that the crime of which he was convicted was his only offense, and was committed "while he was under the influence of excessive drinking," and (his conduct in prison having been such as to merit the especial commendation of the officers) his term of imprisonment, after deducting credits for good behavior, has only a few months to run. December eighteenth, eighteen hundred and seventy-three.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Isaac Z. Wickham	Yolo	Murder, 2d degree	January, 1871	Fifteen years.

DECISION.—Whereas, the petition for his pardon is signed by nine of the jurors who tried the case, and by other respectable citizens of the county; notice of intention to apply for his pardon was duly published in August, eighteen hundred and seventy-two, and has elicited no protest; the defendant has been a resident of the State for many years. Previous to the homicide, as appears by the testimony, there was a dispute between the defendant and the deceased as to the right to a piece of land, both claiming to be in lawful possession; and at the time of the killing the deceased was advancing upon the defendant with a drawn pistol in a manner which would naturally put the defendant in fear of his life. February sixth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
B. F. Krenkle	Tuolumne	Felony	June, 1872	Three years.

DECISION.—Whereas, he has now served the greater portion of his sentence, which was too severe for the offense, and his pardon has been petitioned for by the Judge who sentenced him, the District Attorney who prosecuted the case, all the officers of Tuolumne County, a large number of citizens, and the Joint Committee on State Prison of the Legislature at its twentieth session. February twentieth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Mary Tyrone	San Joaquin	Housebreaking in day-time.	March, 1872	Two and a half years.

DECISION.—Whereas, I am satisfied that the prisoner is a simple-minded woman, who did not intend to commit a crime. February twenty-sixth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Charles Mortimer	Shasta	Burglary	June, 1872	Three years.

DECISION.—Whereas, the prisoner has but nine months to serve on a sentence of three years imprisonment; he is not yet twenty-two years old, has been ill for four months, is confined in the hospital, and his recovery in the prison is doubtful; and his father, a respectable man, and his mother, an estimable woman, are anxious to provide him a home. March ninth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Richard Thompson	Lassen	Murder	June, 1867	For life.

DECISION.—Whereas, the prisoner is now in his seventieth year. The certificate of the surgeon of the prison shows "that his health is very poor, his body bowed down with age, his mind decidedly imbecile." From his condition during the five years of his imprisonment, in connection with the circumstances of the crime, the attorney who assisted in the prosecution is satisfied that the homicide was the result of insanity. His children are ready to provide for him a home, and his pardon is solicited by his former neighbors, and by those acquainted with the details of the crime. March tenth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
R. G. Strong	Mendocino	Grand larceny	June, 1867	Five years.

DECISION.—Whereas, notice of intention to apply for his pardon has been published in Mendocino county, and the result has been neither protest nor remonstrance, but voluminous petitions in his favor; and I am satisfied from abundant evidence, documentary and oral, that the prisoner did not commit the crime of which he was found guilty, and that his conviction was the result of a conspiracy. March sixteenth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Dick Fellows	Los Angeles	Assault to murder and robbery.	January, 1870	Eight years.

DECISION.—Whereas, an examination of the case shows: That the charge of assault to murder grew out of a fight in which the prisoner was twice shot, but no one else was hurt, and he

pleaded guilty to the charge because he was a stranger and without witnesses, the fight having resulted from drunkenness; that the charge of robbery was made afterwards by a deserter from the army, from whom the prisoner had forcibly taken the stakes in a game of cards, and was sustained on his sole testimony; and that neither of the crimes charged were characterized in their commission by a spirit of deliberate or calculating felony, but were the result rather of a profligate and intemperate life. And, whereas, the Legislature, the Judge who sentenced him, the District Attorney who procured his conviction, and others well entitled to consideration, have recommended and petitioned for his pardon, and it seems to me that his punishment has been sufficiently severe, while his conduct during more than four years imprisonment has been uniformly good, and he appears to be completely reformed. April second, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
S. W. Stonedecker	San Mateo	Manslaughter	July, 1871	Ten years.

DECISION.—Whereas, his pardon has been recommended by two Legislatures, and has been petitioned for by the District Attorney who prosecuted him, by the present District Attorney of San Mateo county, by the witnesses against him on the trial, by members of the jury which convicted him, and by many good citizens; and the facts of the case present strong evidence to show that at the moment of the homicide, and for some time previous, the prisoner was in an irresponsible mental condition, and committed the crime without motive and without knowledge. April second, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Wm. W. Walker	Contra Costa	Manslaughter	November, 1870	Ten years.

DECISION.—Whereas, the pardon of the prisoner has been recommended by the Legislature, and, after publication of notice, by most of the county officers and many of the leading citizens of the county in which he was convicted; his conduct in the prison has been exceptionally good; while confined in jail he revealed a conspiracy on the part of other prisoners, and was instrumental in saving the life of the jailer. During and by reason of his confinement he has contracted a disease from which his recovery is doubtful if the full sentence of the Court should be carried into effect. The prisoner is a man of amiable character; from the circumstances of the homicide I am of opinion that it was the result of accident or criminal carelessness, rather than design, and that the punishment already received is sufficient to vindicate the ends of justice. April third, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Thomas Haley	San Francisco	Robbery	February, 1871	Fifteen years.

DECISION.—Whereas, the pardon of the prisoner has been recommended by two Legislatures—the nineteenth and twentieth—the evidence in the case, though raising a strong presumption, is not conclusive as to the prisoner's guilt; it is the first criminal offense with which he has been charged, and I think the sentence of the Court excessive. April eighth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Charles O'Neil	San Francisco	Manslaughter	November, 1868	Seven years.

DECISION.—Whereas, the pardon of the prisoner has been recommended by the Legislature, and after due publication of notice, by petition signed by the Judge before whom he was tried, and the District Attorney who procured the conviction; and from the circumstances of the case I am of the opinion that the prisoner was guilty of involuntary manslaughter, and that the imprisonment he has suffered, of more than five years, is a sufficient atonement for the offense. April eighth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
A. F. Taylor	Sacramento	Grand larceny	February, 1871	Five years.

DECISION.—Whereas, notice has been duly served upon the Judge before whom he was tried, and the District Attorney who prosecuted the case, of intention to apply for his pardon. The prisoner has served more than two-thirds of the term of his sentence, and his conduct has been uniformly good; he is physically disabled on account of wounds received while serving in the army of the United States; and his brother, the master of a vessel about to sail for foreign parts, agrees to take him to his friends. Pardon granted on condition that he depart from the State on or before the first day of June, eighteen hundred and seventy-four, and never return. April twenty-second, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
William Pierce	Sacramento	Burglary	February, 1871	Ten years.

DECISION.—Whereas, the prisoner was convicted before he was nineteen years old, and has now served more than three years of his sentence. His pardon was recommended by the Legislature at its nineteenth session, and his conduct in prison has been such as to justify the belief that he is permanently reformed. From careful inquiry I am satisfied that he is a young man of an unusually kind and self-sacrificing nature, and but for accidental evil associations would have been a useful citizen. A man of high character and known integrity (whose sons Pierce nursed during an attack of small-pox, at the risk of his own life,) offers to provide for him employment and a home. April thirtieth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
James Smith	San Francisco	Robbery	January, 1872	Fifteen years.

DECISION.—Whereas, the prisoner was recommended for pardon by the Legislature at the twentieth session. The Judge before whom he was convicted states that if the character of the prosecuting witness had been known to the jury, it is not probable any conviction could have been had. The Judge of the Municipal Criminal Court, the District Attorney, the Assistant District Attorney, who prosecuted the case, and the police officer who made the arrest, all request the prisoner's discharge on the ground that facts which have come to their knowledge since his trial justify serious doubts as to his guilt. May fourteenth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
John Moore-----	Los Angeles---	Grand larceny---	June, 1873-----	Two and one-half years.

DECISION.—Whereas, I am satisfied that there was no felonious intent in the taking of the property, but that the prisoner, who was intoxicated at the time, believed he had a right to take it to secure a debt due to him from the owner. The said Moore is a young man who has never before been charged with a crime, and a friend of his is prepared to take him to his father, in one of the Eastern States. The pardon has been petitioned for by well-known and respected citizens of Los Angeles County, and no remonstrance or protest has been filed against such petition. June thirteenth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
H. A. McCausland--	San Francisco--	Manslaughter---	January, 1873---	Two years.

DECISION.—Whereas, his pardon was recommended by the Legislature, at its twentieth session, and has been petitioned for by a large number of respectable citizens of San Francisco, including the District Attorney and his assistant, who prosecuted the case, and no protest or remonstrance has been made, verbally or in writing. The District Attorney and his assistant express the opinion that the said McCausland believed the killing was in necessary self-defense, and that a year's imprisonment was a sufficient penalty for the offense. The former good character of the prisoner is abundantly established, and in addition to his imprisonment of fifteen months in the State Prison, he was a year in jail. A majority of the jury at his first trial believed the homicide justifiable. June seventeenth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Andreas Galindo----	Tuolumne-----	Murder, 2d degree.	July, 1862-----	Twenty years.

DECISION.—Whereas, he has now served more than twelve years in the prison without violating a single rule thereof; he was recommended for pardon by the Legislature, at its nineteenth session, and has been especially recommended by all the officers of the prison on account of marked good conduct, and, under the law, about four years only of his sentence of twenty years remain to be served. July thirty-first, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Cicero Stearns-----	Sonoma-----	Accessory to robbery.	January, 1870---	Six years.

DECISION.—Whereas, the prisoner was recommended for pardon by the Legislature, at its twentieth session; has but about six months of his sentence to serve, and is so broken in health that his strength to survive the full term is very doubtful; and the principals in the robbery, to which he was merely accessory, have both been released from prison during his punishment, in which the conduct of the said Stearns has been excellent. August first, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Benjamin Gill-----	Placer-----	Grand larceny---	March, 1872-----	Five years.

DECISION.—Whereas, the application for the pardon is signed by the prosecuting witness, the owner of the property stolen, by the District Attorney who procured the indictment, by the District Attorney who tried the case, by the Sheriff and most of the officers of the Court at the time of the trial, and recites that there are many and grave doubts as to the prisoner's guilt. The Judge before whom the trial was holden states that since the trial many circumstances have come to his knowledge which induce him to believe that the witnesses for the prosecution were mistaken as to the identity of Gill. And, whereas, a careful examination of the evidence leads me to believe that such mistake, under the circumstances, could easily be made. Entertaining strong doubts as to the guilt of said Gill of the crime for which he has been convicted, and for which he has suffered over two years' punishment. August fourteenth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Frank Aschenaur----	Sacramento---	Assault with intent to murder.	December, 1872--	Three years.

DECISION.—Whereas, notice of intention to apply for pardon was duly published in October, eighteen hundred and seventy-three, the petition therefor is signed by hundreds of the citizens who personally know the prisoner, including the Judge before whom he was tried, and nearly all the officers of the Court; the defendant has lived in Sacramento County many years, and has always sustained the reputation of an industrious and honest man; from statements made to me by many of his neighbors, and from personal knowledge of him, I am of opinion that on account of a series of domestic difficulties he was in a condition of mind, at the time of the commission of the act, that impaired his moral accountability, and that the punishment already suffered is a sufficient atonement for the offense. August twenty-fifth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Francis Magner----	San Francisco--	Housebreaking---	August, 1874----	One year.

DECISION.—Whereas, the application for the pardon of the said defendant is signed by all of the jurors before whom he was tried. Defendant was under eighteen years of age at the time of the commission of the offense. It is satisfactorily shown that his previous habits had been good, and that he was rather an accessory than principal in the crime for which he was convicted, the principal not having been prosecuted. Believing that a year's imprisonment in the State Prison will ruin a life which may be saved by a change of associations, arrangements for such change having been made. September seventh, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Ah Wy-----	San Francisco--	Burglary-----	January, 1874---	Three years.

DECISION.—Whereas, the evidence in the case shows that the building entered adjoined a Chinese laundry, and the prisoner's plea that he merely made a mistake has been strengthened since his conviction by this: He was under eighteen years of age—a fact not known to the

Judge at the time of his arrest; he was engaged to work at the laundry alluded to; he had no burglar's tools of any kind in his possession, nor had he attempted to secure or remove anything; he has abundantly proved that during his residence in this State and in Oregon his character has been excellent beyond a doubt. Five of the jurors in his case have petitioned for his pardon, and I am of opinion that he was a victim of circumstances, and not a criminal. September seventh, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
James Nelson-----	Sacramento---	Arson and burglary	January, 1871---	Twenty years.

DECISION.—Whereas, the pardon of the prisoner is solicited by the Judge by whom he was sentenced, and by the District Attorney who prosecuted him. It appears that at the time of the commission of the offense the said Nelson was not nineteen years old, and that he was led into crime in a spirit rather of mischief than of depravity, by older persons, none of whom have been punished with the severity of the prisoner's sentence. During his imprisonment his conduct has been unexceptionable, and all the officers of the prison are satisfied that he is permanently reformed. Arrangements have been made to place him in a position distant from his former evil associations, where he may become a useful man. Pardoned on condition he leave the State and never return. September tenth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
H. M. Stuart-----	Calaveras-----	Manslaughter----	April, 1874-----	One year.

DECISION.—Whereas, notice of intention to apply for his pardon has been duly published, and no remonstrance has been made, but a petition for his pardon has been numerously signed by good citizens acquainted with the facts—including nearly all the county officers of Calaveras County. The District Attorney who prosecuted the case recommends a pardon, and states: "The deceased had during the day made repeated threats to chastise Stuart, had hunted him through the village of Mokelumne Hill, and finally expectorated a mouthful of vile saliva in the face of Stuart, and threw himself in a fighting attitude, when Stuart, in the heat of passion, under the insult, shot him. * * * I don't think there was malice aforethought in the mind of Stuart at the time of the homicide." The Judge before whom Stuart was tried concurs in the above statement. Under this state of facts I believe that the ends of justice do not require a greater punishment than said Stuart has already received. September twenty-second, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
William Fugitt-----	Shasta-----	Robbery-----	September, 1874---	Two years.

DECISION.—Whereas, his pardon is requested by a large number of respectable citizens of Shasta County; the County Judge and District Attorney join in the petition and state that Fugitt was arraigned in connection with Milton Shepardon and Ziska Calmeze; that he pleaded guilty and disclosed all the circumstances connected with the crime; that he was induced to enter into the robbery by those much older than himself, and that in the three years which have elapsed since it was committed he has led an honest and industrious life. October third, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Ah Chee-----	San Francisco---	Assault to rob----	March, 1871-----	Fourteen years.

DECISION.—Whereas, notice of intention to apply for his pardon has been duly served upon the Judge and District Attorney who tried the case. The prisoner had no counsel at his trial. The witnesses were three Chinamen and the officers who made the arrest; and from a careful examination of the testimony, and of certain facts bearing upon the case, which were not proven at the trial, I am of the opinion that it is more probable the prisoner is the victim of a conspiracy on the part of the Chinese witnesses than that he is guilty of the crime for which he has already been punished by more than three and one-half years imprisonment. October twenty-third, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
John L. Reed-----	Humboldt-----	Grand larceny-----	January, 1874---	Three years.

DECISION.—Whereas, the petition for his pardon is signed by over five hundred names, including most of Reed's immediate neighbors, and represents in an unusual degree the best public opinion of Humboldt County. It recites that the prisoner has been a citizen of Humboldt County for more than twenty years, and has always been an industrious man and borne a good character for truth and integrity, and that the petitioners believe him to be innocent of the crime of which he is convicted. I have received letters from the County Judge, the attorney who was of counsel for the prosecution, the District Attorney, the County Clerk, the State Senator, and from other county officers, requesting his pardon. The District Attorney says the prisoner "has been a man at all times possessing a character of spotless integrity, and that his conviction seemed to be one of those unfortunate circumstances where sufficient evidence was procured to warrant a jury in their verdict of guilty, and yet the party charged be entirely innocent." The Sheriff of the county assures me that from his knowledge of what took place on the trial, and his present acquaintance with the character of the witnesses, he believes the prisoner to be innocent. October twenty-fourth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
William Robertson--	Los Angeles---	Grand larceny-----	April, 1874-----	One year.

DECISION.—Whereas, the petition for the pardon of the prisoner is signed by the County Judge of Los Angeles County, before whom he was tried; by the District Attorney who prosecuted, and by most of the county officers and attorneys of said county. It sets forth that at the time of the commission of the offense the prisoner was but seventeen years old; that his previous character and habits had been good. I am also assured that arrangements have been made to send him to sea with the master of a vessel, who will watch over and care for him. October thirty-first, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Edwin E. Kellogg--	San Francisco---	Forgery-----	November, 1874---	Two years.

DECISION.—Whereas, the foreman of the grand jury that found the indictment, and all of the trial jurors who tried the case, have signed a petition for the pardon of the prisoner, and

certify to the following facts: The prisoner's offense consisted in collecting a forged check for one hundred dollars, with his own indorsement, and there is a reasonable doubt of his knowledge of the forgery; that he was under eighteen years of age at the time the offense was committed; is the only son of a widowed mother; was convicted on a third trial; and has been confined in jail for more than a year. November nineteenth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
W. W. Rathbone....	Sacramento and Alameda.	Forgery	April and September, 1873.	Five years.

DECISION.—Whereas, the County Judge of Sacramento County, and the County Judge and District Attorney of Alameda County, unite in the petition for pardon of the prisoner, on the ground that—although there were five convictions—the forgery was essentially one act, and the whole amount obtained less than one hundred dollars. The prisoner is a young man, apparently more weak-minded than depraved, and his father, an honest and respectable man, in one of the Eastern States, offers to defray his expenses to his old home. Pardoned on condition he leave the State and never return. November twenty-third, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
William Miller.....	Yolo.....	Robbery and felony	October, 1871.....	Six years.

DECISION.—Whereas, the felony of which the prisoner was convicted was an escape from jail effected without personal violence. His sentence for robbery has nearly expired. The surgeon, and other officers of the prison, assure me that his health is so broken that a longer imprisonment will endanger his life. He is still a young man—never was charged with an offense before—and his pardon is solicited by the Judge before whom he was tried; the District Attorney who prosecuted the case, the prosecuting witness, and a large number of citizens of Yolo County, who personally know the prisoner. November twenty-fourth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
G. N. Roper.....	San Francisco..	Grand larceny....	January, 1874....	One year.

DECISION.—Whereas, his pardon has been petitioned for by a majority of the jurors who tried him, and by a number of citizens of good character and intelligence; the term of his sentence would expire by operation of law on the eighteenth of the present month; and I am assured by John A. Collins, of San Francisco, that if the prisoner be now released he will be given immediate and constant employment, the opportunity for which will pass if he is compelled to serve out the few remaining days of his sentence. December seventh, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Martin Noon.....	San Francisco..	Manslaughter	September, 1870..	Ten years.

DECISION.—Whereas, the prisoner had at the time of his conviction a well-established character for honesty and industry, and has conducted himself with exceptional propriety during

the four years which he has been imprisoned; two successive Legislatures have recommended his pardon, and I have been petitioned to pardon him by many citizens of San Francisco of good character and intelligence; and neither his own reformation nor the interests of the State require his further punishment. December twenty-third, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Frank Fox.....	Mendocino	Robbery	December, 1871..	Eleven years.

DECISION.—Whereas, from the certificate of the Judge before whom the prisoner was tried, the District Attorney who prosecuted the case, and all of the county officers of Mendocino County, I am induced to give credit to the voluntary affidavit of John Robinson, now in the State Prison for another offense, that he, Robinson, committed the crime for which Fox is suffering punishment. The Clerk of the prison states to me that Fox and Robinson have a marked general resemblance, and that each has lost the left eye, which will readily account for the mistake of identity. February tenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
J. L. Hawkins ---	San Joaquin---	Murder, 2d degree.	March, 1869.....	For life.

DECISION.—Whereas, it is shown to my satisfaction that the homicide committed by the prisoner was provoked by the criminal intercourse of the man killed with the prisoner's wife. The said Hawkins is in failing health, and the punishment already inflicted is believed to be sufficient to vindicate justice and the law. February twenty-sixth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Michael Stanton....	San Francisco..	Grand larceny....	September, 1872..	Eight years.

DECISION.—Whereas, the notification required by law, of intention to apply for pardon, has been duly served. I am satisfied there were no circumstances to aggravate the crime of which the prisoner was convicted. A short time since one of the guard at San Quentin was attacked by a prisoner, with murderous intent; Stanton interfered to protect the guard, and probably saved his life. February twenty-sixth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
M. H. Walsh.....	Merced	Manslaughter	April, 1873.....	Eight years.

DECISION.—Whereas, upon the first trial of the prisoner the jury disagreed, and the circumstances of the case afford a reasonable doubt as to his intentional guilt. And his pardon has been solicited by the Judge before whom he was tried, by the District Attorney who prosecuted the case, by a majority of the jurors who found him guilty, by nearly all the officers of Merced County, and by a large number of citizens familiar with the facts. February twenty-sixth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Peter Metz.....	Sacramento....	Murder, 2d degree.	May, 1855.....	For life.

DECISION.—Whereas, the prisoner is a man of weak mind, who killed the woman he loved in a fit of jealousy, which was little, if at all, short of insanity. He has now been in the prison longer than any other inmate, and never has violated a rule nor shirked a duty. February twenty-seventh, eighteen hundred and seventy-five.

LIST OF PARDONS FROM COUNTY JAILS,

GRANTED BY GOVERNOR BOOTH,

From November 4th, 1873, to January 23d, 1874.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Fred'k. Atkinson---	Sacramento....	Petit larceny.....	August, 1873 ----	One year.

DECISION.—Whereas, it appears to me from the written statement of a number of respectable citizens, including the Judge before whom he was tried, that the prisoner is a youth of weak intellect, who was sorely tempted to the commission of his offense by extreme poverty and great want; and friends of his deceased father are now ready to provide for him. November fourth, eighteen hundred and seventy-three.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
H. A. Cox.....	Placer.....	Petit larceny ----	December, 1873..	Fifteen days in County Jail, in default of payment of fine.

DECISION.—Whereas, it has been conclusively shown to me that the defendant was not guilty of the alleged crime, but plead guilty through ignorance and accident, thinking that he was simply acknowledging having retained an article of personal property as security for a debt for board. January twelfth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Gholson Marsh.....	Butte.....	Resisting an officer.	October, 1873....	Six months.

DECISION.—Whereas, he has now served about two-thirds of his term of imprisonment in the County Jail, and I am satisfied, from representations of prominent citizens of Solano County,

who have known him from childhood, that he is a young man of generous instincts, and that this release will tend to reform any bad habits he has contracted and assist in the support of a very worthy mother; and prominent citizens of Butte County, where the offense was committed, represent to me that the punishment received under the circumstances is a sufficient atonement for the offense committed. February eighteenth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Thomas Kennedy --	Yuba	Assault and battery	December, 1873..	Four months.

DECISION.—Whereas, the prisoner was sentenced to four months' imprisonment in the County Jail, and from representations made to me by the prosecuting witness, the County Judge, the District Attorney, the Sheriff, other county officers, and respectable citizens, and from the fact that the health of the prisoner is impaired by his confinement, I am of opinion that the punishment received is sufficient to satisfy the ends of justice. February twenty-third, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Julia Houseman---	Sacramento ---	Disturbing the peace.	January, 1874 ---	Sixty days.

DECISION.—Whereas, the Judge who sentenced her, the Chief of Police, and others, have petitioned for her pardon; she is represented to be occasionally of probably unsound mind, and has now served out two-thirds of the said sentence. April fourth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
John Jackson	San Francisco	Assault and battery.	February, 1874 --	One year.

DECISION.—Whereas, the pardon has been asked for and recommended by Francis & Valentine, Frank M. Pilley, Geo. Oulton, and other residents of San Francisco acquainted with the prisoner and his offense, and it has been certified to me that his crime was but "a single deviation from the path of rectitude, a boyish freak stimulated by over-indulgence in drink, and, for the time, evil associations, and a like mistake will not again be made by him." April twenty-eighth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Samuel Snider.....	Colusa	Assault with attempt to commit murder.	April, 1874.....	Fine of \$500, or imprisonment till paid.

DECISION.—Whereas, the pardon of said Snider is requested by the Judge before whom he was tried, the District Attorney who prosecuted him, and a large number of respectable citizens of Colusa County, on the ground that said defendant has long resided in Colusa County, and has always been a peaceful, industrious, and law-abiding citizen until this offense, which was committed while he was intoxicated. That said defendant had been confined in jail for three months before his trial, is too poor to pay his fine, and is now sick by reason of his confinement. June third, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Jane Kelly -----	Sacramento ---	Disturbing the peace.	March, 1874-----	Sixty days.

DECISION.—Whereas, her pardon is recommended by the Police Judge before whom she was tried, and by the County Judge who heard the appeal; and the prisoner has served half the term of her sentence, and is now ill and liable to die in jail. September twenty-sixth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Robert Howard ----	Sacramento ---	Petit larceny ----	November, 1874 -	Ninety days.

DECISION.—Whereas, the prisoner's offense—stealing a coat valued at five dollars, while drunk—was not an aggravated one; he has now served more than sixty days in expiation thereof, and a suffering wife and family need his services in consequence of the disaster, at the City of Marysville. January twenty-third, eighteen hundred and seventy-five.

COMMUTATIONS OF SENTENCE,

GRANTED BY GOVERNOR BOOTH,

From December 4th, 1872, to February 27th, 1875.

Name of Prisoner.	County.	Crime.	Sentenced.	Sentence.
Pablo Martinez ----	Tulare -----	Murder, 1st degree.	October, 1873----	Death.

DECISION.—Whereas, the said Pablo Martinez, at the time of his trial, was without friends or money, and spoke English so imperfectly that his defense was necessarily imperfect, and the only witness to the killing was intoxicated at the time it occurred, and was a party to the quarrel which was its immediate occasion; and I am of opinion that if the facts which immediately preceded the homicide had been in evidence before the jury, as shown to me by affidavits of respectable citizens, the verdict would have been murder in the second degree. Let his sentence be commuted to imprisonment in the State Prison for the term of his natural life. December fourth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Sentence.
Robert McDonald --	Solano -----	Murder, 1st degree.	September, 1873 -	Death.

DECISION.—Whereas, the Supreme Court in reviewing the case, although constrained by the settled rules of law to affirm the judgment, yet in their decision convey a clear intimation that

the prisoner was laboring under the delusion that he was persecuted because of his religion, that his mind was in a morbid and diseased condition on this subject, and that the circumstances of the homicide appeared to indicate an entire absence of the motives which usually prompt men to deeds of violence. And the Judge before whom he was tried has written to me that he was so strongly impressed with the probability of the insanity of the prisoner that he would have substituted for the verdict of the jury a verdict that would not have required the infliction of the death penalty, if he had possessed power to do so. And I have been credibly assured that the said Robert McDonald is not, and was not at the time of the murder he was convicted of, of sound mind. Let his sentence be commuted to imprisonment in the State Prison for the term of his natural life. December eighth, eighteen hundred and seventy-three.

Name of Prisoner.	County.	Crime.	Sentenced.	Sentence.
James H. Briggs----	Sonoma -----	Assault to do bodily injury.	April, 1874-----	To pay a fine of \$2,000, and stand committed until such fine is paid at the rate of two dollars per day.

DECISION.—Whereas, I have received a petition asking for the pardon of the prisoner, signed by nine of the jurors before whom he was tried, and by numerous respectable citizens of Sonoma County, also many letters from men of high standing in that county and in the county where he formerly resided; and from all the representations made to me, including those of the County Judge who tried the case, and of the attorney who assisted in the prosecution, I am of opinion that the ends of justice will be subserved by placing the fine at an amount the prisoner can pay. Let the sentence be commuted to the payment of a fine of one thousand four hundred dollars, the prisoner to stand committed until such fine be paid at the rate of two dollars per day, dating from the commencement of his imprisonment. November twenty-fourth, eighteen hundred and seventy-four.

Name of Prisoner.	County.	Crime.	Sentenced.	Sentence.
Hiram Vickery----	Humboldt ----	Burglary and grand larceny.	July, 1871 -----	Twenty-four years.

DECISION.—Whereas, the Legislature of the State at its last session recommended commutation of his sentence to five years imprisonment, and after making careful inquiries I learn there were no facts of aggravated guilt attending the crime of which the prisoner was convicted to justify so unusual a punishment. Let the sentence be commuted to imprisonment in the State Prison for the term of five years—credits for good conduct to be allowed from commencement of imprisonment. February twenty-sixth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Sentence.
Alfred McAllister---	Sacramento ---	Murder, 2d degree.	July, 1869-----	Twenty years.

DECISION.—Whereas, the pardon of the prisoner was recommended by the Legislature at its last session; I am satisfied from statements of the Judge who presided at the trial, the District Attorney who prosecuted the case, and others, that the blow which caused the death of deceased was not struck with a deadly weapon, and as there was no intention to kill, the conviction should have been of manslaughter. Let the sentence be commuted to imprisonment in the State Prison for the term of eight years—credits for good behavior to be allowed from the commencement of his imprisonment. February twenty-sixth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Sentence.
Paul Hubbard.....	Sacramento ---	Robbery and arson.	January, 1871 ---	Ten years.

DECISION.—Whereas, the prisoner was one of a confederated number of criminals in Sacramento who were convicted partly upon his voluntary evidence, and who have all received various degrees of punishment, but none of them more than has been inflicted upon himself; he was at the time of his arrest a young apprentice machinist, industrious, and highly recommended by his employer, and has constantly conducted himself properly during his imprisonment; the Judge who sentenced him, and the District Attorney who prosecuted him, unite in recommending his pardon, on the grounds that he has now been sufficiently punished for his crime, and his reformation is assured. Let his sentence be commuted to imprisonment in the State Prison for the term of five years and one month, dating from the commencement of his imprisonment there—credits for good behavior to be allowed from the same date. February twenty-seventh, eighteen hundred and seventy-five.

RESTORATIONS TO CITIZENSHIP, BY GOVERNOR NEWTON BOOTH,

From November fourth, eighteen hundred and seventy-three, to November twenty-third, eighteen hundred and seventy-four.

Persons Restored.	County.	Crime.	When Sentenced.	Term.	When Restored.
John Williams	Sacramento	Grand larceny	October, 1871	Two years	November 4th, 1873.
J. C. Gibson	Siskiyou	Forgery	July, 1857	One year	February 9th, 1874.
John Styles alias Chs. Heisen	Yuba	Grand larceny	August, 1855	Five years	August 29th, 1874.
R. S. Vincent	Tulare	Jail-breaking	March, 1871	One year	September 15th, 1874.
Dennis Murphy	Butte	Manslaughter	November, 1861	One and a half years	November 23d, 1874.

LIST OF PARDONS FROM STATE PRISON,

GRANTED BY GOVERNOR PACHECO,

From March 13th, 1875, to December 3d, 1875.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Edward Pool-----	San Bernardino	Assault to rape----	January, 1873----	Seven years.

DECISION.—Whereas, due notice of intention to apply for his pardon has been given, and no remonstrance has been elicited from any source; and his pardon has been solicited and petitioned for, on the ground that it has been ascertained since his trial that but little guilt could have been justly ascribed to the act for which he was convicted, in which petition a large number of his immediate neighbors, the Judge who tried the case, the jurors who found him guilty, and the father of the supposed victim, urge his pardon. March thirteenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
B. C. Hubbard-----	Shasta-----	Manslaughter-----	April, 1873-----	Seven years.

DECISION.—Whereas, the prisoner has now been confined more than two years, and has conducted himself with marked propriety during that time; and his pardon has been petitioned for by the Judge who sentenced him, the County Judge, Sheriff, Under Sheriff, County Clerk, and other officers of Shasta County, the foreman of the Grand Jury that indicted him, nearly all the jurors who found him guilty, and a large number of well known citizens of the said county; and it appears from the statements made by the above-named petitioners that the punishment already inflicted on the prisoner is sufficient to vindicate the law and fully satisfy the ends of justice—it being fully apparent that he is not a criminal from choice, but from misfortune. March twenty-seventh, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Charles Marshall---	San Francisco	Burglary and prior conviction of a felony.	October, 1871----	Ten years.

DECISION.—Whereas, the said Charles Marshall recently communicated to the Captain of the Guard at the prison information and details of a conspiracy formed among certain desperate prisoners, whom he named, to break out of their cells and the prison, which information was

not fabricated, but was shown to be true by the search and examination which was immediately made; and, whereas, by voluntarily exposing the said plot, in which a minor part had been intrusted to him, the prisoner performed a meritorious act, possibly prevented a dangerous outbreak and serious bloodshed, and has certainly endangered his own safety, if not his life; and, whereas, in view of the service done the State, and the consequent continual danger from exposed conspirators that must menace the prisoner as long as he remains within their reach—and in consideration of his youth (his age being barely nineteen), it seems probable that he will be sacrificed if he remains at the prison, but may reform and become a good citizen if permitted to depart; and the interests of the State require that such praiseworthy conduct as that of the prisoner should be recognized and rewarded. March twenty-seven, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
James Woody-----	Santa Cruz----	Felony-----	November, 1873----	Three years.

DECISION.—Whereas, I find from a careful examination of the case that the crime of which he was convicted—"assault with intent to rob"—was committed under circumstances which make it very doubtful, at the least, if any robbery or other crime was contemplated or intended; and in view of such fact, and of the valuable services rendered by him while in prison at Santa Cruz, his pardon has been solicited and petitioned for by the Judge before whom he was tried, the District Attorney, all the officers of the Court, the jurors who found him guilty, the State Senator and the Assemblyman of Santa Cruz County, and by a large number of business men and well-known residents thereof. April second, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
William Cullen-----	Shasta-----	Robbery-----	April, 1872-----	Seven years.

DECISION.—Whereas, due notice of intention to apply for his pardon has been published without eliciting protest or remonstrance from any source, but, on the contrary, has resulted in strong petitions in his favor; and he has since his conviction constantly and readily given valuable aid and information to the authorities, and has by his voluntary testimony, proved by corroborating evidence to be truthful in every instance and particular, promoted justice, and redeemed his own character by showing natural honesty and the intention to reform; and he has now been imprisoned more than three years, and his pardon is asked for by Wells, Fargo & Co., whom he robbed, the Judge who sentenced him, the District Attorney and others, officers of Shasta County, several of his jurymen and many prominent citizens. April third, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Francis Magner-----	San Francisco	Housebreaking----	August, 1874----	One year.

DECISION.—Whereas, on the seventh day of September, eighteen hundred and seventy-four, for reasons at that date made public, the prisoner was pardoned on the condition that he leave the State and remain absent for the period of one year; and such period has now almost expired, and his mother being dangerously ill in San Francisco it seems only just and merciful to remove the condition of the pardon recited, and permit him to return. April fifth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
William A. Hart	Tulare	Murder	June, 1872	Life.

DECISION.—Whereas, it appears from the evidence given at the trial, from the confession and affidavits of K. H. Keeney, who alone did the killing, and from all the circumstances of the case developed then and since, that the said prisoner did not commit the crime for which he was convicted, nor was he an accessory before the fact upon any impartial interpretation of all the testimony relating to the murder; and arrangements having been made to send him to his friends in a distant country, it seems to be only just to release a man who is most probably innocent. This pardon is granted on the condition that he departs from California on or before the twentieth day of May, eighteen hundred and seventy-five, and never returns thereto. April twenty-sixth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Mary Madalina	Marin	Murder, 2d degree.	March, 1872	Twenty years.

DECISION.—Whereas, the prisoner is a woman whose natural character and disposition afford strong evidence to strengthen the common opinion amongst those who are familiar with the facts of her trial and conviction, that she was not really guilty of the crime nor accessory to the murder; and responsible parties, competent to provide for her and willing to care for her, having offered her the immediate protection of a home, it seems fully advisable to terminate a punishment that is probably unjust, and is certainly neither a protection to society nor a benefit to the prisoner. May fifth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
E. G. Watkins	El Dorado	Robbery	March, 1872	Four years.

DECISION.—Whereas, the conduct of the prisoner has been uniformly good during the several years he has been confined, and his term of sentence is nearly completed; and the physician at the prison has certified to me that the health of the said Watkins is seriously impaired, and his mind affected and weakened to such an extent that it is probable he could not survive if compelled to fully serve out his sentence; and his friends and relations now offer to receive and properly provide and care for him. May fifth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Mary Montgomery	San Francisco	Manslaughter	November, 1873	Two years.

DECISION.—Whereas, the term of her imprisonment expires, by limitation, within a few weeks; her conduct has been excellent during her punishment; and a lady about to travel abroad having offered to take her into service and assume her guardianship, the opportunity to benefit the unfortunate prisoner, without injuring the State, constitutes a good reason for the exercise of the pardoning power. May fifth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Charles H. Wilson	Tuolumne	Poisoning food	January, 1875	One year.

DECISION.—Whereas, in view of the fact that the prisoner is but sixteen years of age, in consideration of the punishment he has already undergone, and for the reason that there is a doubt as to his criminal intention, his pardon is now petitioned for by the Judge who sentenced him, the District Attorney, Sheriff, Supervisors, County Clerk, Treasurer, Recorder, and other officers of Tuolumne County, as well as by the jurors who found him guilty, and a number of citizens. May tenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Harrison Fuqua	San Joaquin	Grand larceny	November, 1874	Two years.

DECISION.—Whereas, the prisoner is a young man whose character was excellent until the time of his arrest; and the Judge who sentenced him petitions for his pardon, and states that the circumstances of the crime were "such as to indicate that he could not have fully realized what he was doing," and "in my judgment the whole transaction really lacked the essential elements of the crime to which he plead guilty;" which statement and petition is indorsed by the District Attorney, the victims of the larceny, and a large number of citizens of San Joaquin County. May twenty-ninth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Isaac E. Brokaw	San Francisco	Murder, 2d degree.	January, 1872	Sixteen years.

DECISION.—Whereas, the prisoner has now been punished for nearly four years, during which time his conduct has been unexceptionable; and whereas, his pardon has been solicited and petitioned for by a large number of prominent citizens of California and Nevada, by the District Attorney who prosecuted him, and by a majority of the jury who found him guilty; and the Judge who sentenced him states "that there were mitigating circumstances connected with the perpetration of the homicide, to which my attention was not directed, which would have compelled me, in justice to the prisoner, to have imposed the least penalty the law would permit," and recommends that he be pardoned. June fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Valentine Lopez	Los Angeles	Grand larceny	May, 1874	Two years.

DECISION.—Whereas, due notice of intention to apply for his pardon has been published without eliciting protest or remonstrance from any source; he has served the greater portion of his term of sentence, and has constantly conducted himself well; his pardon has been petitioned for and solicited by a large number of prominent citizens of Los Angeles County, including the officers and Judge of the Court wherein he was convicted, on the ground that his offense was, in reality, a trifling one, and did not merit so severe a punishment. June fifth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Charles Shettler	San Bernardino.	Manslaughter	October, 1872	Seven years.

DECISION.—Whereas, due notice of intention to apply for his pardon has been published without eliciting remonstrance from any source; the prisoner has been confined nearly three years, and has so conducted himself as to deserve and obtain the commendation of all the prison officers; he had constantly borne a good character in the community where he lived, and was convicted entirely upon circumstantial evidence; and his pardon has been solicited and petitioned for by a large number of the most prominent citizens and officers of San Bernardino County. June twenty-fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Edward Cage	Butte	Assault with a deadly weapon.	April, 1874	Two years.

DECISION.—Whereas, the prisoner has now served the greater portion of his sentence, and has so conducted himself as to gain the commendation of the prison officers; and due notice has been published of intention to apply for his pardon, without resulting in any protest; and I am convinced, after fully examining the case and the papers now of record in my office, that his punishment has already been sufficient, and should terminate at once. June twenty-ninth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
John B. Daglier	San Francisco	Burglary and felony.	September, 1871	Ten years.

DECISION.—Whereas, his conduct in prison during four years of punishment has been good; published notice of intention to apply for his pardon has been duly given, and no remonstrance has been received; his pardon has been solicited and petitioned for by a large number of men of high character and intelligence, and preparations have been fully made to send him to France. He was an accessory—not a principal—in the crime for which he has now been severely punished, and the interests of the State and of society do not seem to require, under the circumstances, his further imprisonment. Pardon granted on condition that he departs from California on or before July twentieth, eighteen hundred and seventy-five, and never return. July ninth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Charles Severs	Colusa	Assault to murder	October, 1874	One year.

DECISION.—Whereas, it appears conclusively to my mind, from the statements and petitions of the Judge before whom he was tried, the attorneys who prosecuted the case, and a large number of the most intelligent citizens of Colusa County, that the said prisoner should have been acquitted instead of convicted, and that there are strong probabilities that he is innocent of the crime for which he is now suffering. July twentieth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Fred'k. R. Lane	San Francisco	Manslaughter	October, 1872	Five and one-half years.

DECISION.—Whereas, the prisoner was an industrious man of good character previous to his conviction; he has a family dependent upon him for support; the mitigating circumstances of his crime, and the conduct of the prisoner before his misfortune and during his imprisonment since, present strong grounds for the belief that, having served more than half his term of sentence, his punishment has been sufficient; and his pardon is petitioned for by many citizens of good character and judgment, including the jurors who tried him, and the District Attorney who prosecuted the case. August fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
John Harding	Mendocino	Burglary	December, 1873	Two years.

DECISION.—Whereas, it appearing to my mind, after careful examination of the statement of the case, that the facts disclosed by the evidence on his trial were not sufficient to warrant a conviction. His pardon is petitioned for by the County Judge who sentenced him, the District Attorney who prosecuted, the Sheriff and Under Sheriff, the County Clerk and his deputy. His term of sentence will soon expire; the law has been vindicated and justice satisfied. August fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Ah Sing	San Francisco	Housebreaking	September, 1874	Three and one-half years.

DECISION.—Whereas, notice of intention having been given for the pardon of defendant, and no objection made thereto; and the Judge of the Court before whom he was tried recommending the same, in which solicitation he is joined by the acting District Attorney who prosecuted him, the prosecutor himself, eleven of the jury by whom he was convicted—one being absent from the State; and, whereas, it has been satisfactorily proven to me that the defendant was under the age of seventeen years at the time of his conviction, which fact, had it been known to the Judge, would have placed him in the Industrial School in lieu of the State Prison. It was his first offense; and taking into consideration his youth and previous good character, I think his punishment has been sufficient to atone for his crime. His friends have promised to send him back to China. This pardon is granted on the condition that he leave the State on or before September first, A. D. eighteen hundred and seventy-five, and never return. August fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
John Armstrong	Sonoma	Manslaughter	October, 1871	Six years.

DECISION.—Whereas, he has now served the greater portion of his sentence, and his pardon has been urged, solicited, and petitioned for by a great number of residents of Sonoma County, on the ground that his punishment has been ample, and that his large and helpless family deserve sympathy and consideration. September fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
William Snellie----	San Francisco--	Grand larceny----	September, 1870--	Ten years.

DECISION.—Whereas, the prisoner has now served five years in the penitentiary for the crime of stealing sixty dollars from a drunken man; his conduct has been good during his long punishment. The larceny was his first offense against the laws, and the sentence was disproportionate to the crime. His punishment has been ample, and he is, in my opinion, fully reformed. September fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Giovani Ramosa----	San Francisco--	Assault to murder--	September, 1870--	Fourteen years.

DECISION.—Whereas, the Legislature of this State has recommended him for Executive clemency; due notice of intention to apply for his pardon has been published without eliciting any remonstrance or protest. His punishment has already been severe, and his pardon has been largely petitioned for on the ground of mitigating circumstances in the assault, and want of proper defense at the trial, owing to poverty and lack of friends. October twelfth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Larry Gorman-----	San Francisco--	Burglary-----	May, 1873-----	Four years.

DECISION.—Whereas, he has served the greater portion of his term of sentence; his conduct while in prison has been good; and, in view of his youth and previous good character, his pardon has been solicited by the District Attorney and by a number of prominent citizens. October thirteenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Ah Foo-----	San Francisco--	Murder in second degree.	September, 1864--	Fifteen years.

DECISION.—Whereas, by reason of constant good conduct during eleven years incarceration the term of his sentence has been reduced by days credited under the law so that little remains to be served, and his punishment has fully vindicated the law and reformed the criminal. October fourteenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Edward Gilfeather--	San Francisco--	Robbery-----	July, 1874-----	Three years.

DECISION.—Whereas, he has now been imprisoned fifteen months, which imprisonment, in view of his extreme youth, is thought to be severe enough to reform him unless he be determined to remain a criminal; and in order to give him an opportunity to become a respected member of society, and in the hope that he will profit by the lesson he has received. October twenty-first, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Jno. Hauser-----	Santa Clara----	Murder in second degree.	September, 1870--	Twenty-five years

DECISION.—Whereas, during his five years' imprisonment his conduct has been excellent, and he has become a thoroughly reformed man, whose further punishment is not required either in his own interests or those of the State, and arrangements have been made to send him to Switzerland, his native land. Pardon granted on condition that he departs from the State on or before November tenth, eighteen hundred and seventy-five, and never return. October twenty-first, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Jno. Hendrickson---	Napa-----	Grand larceny----	September, 1871--	Eight years.

DECISION.—Whereas, a petition for his pardon has been presented, signed by the Judge who sentenced him, the Sheriff, the prosecuting witnesses, several of the jurors in the case, and a number of prominent citizens of Napa County; and it appears not only that the sentence was disproportionate to the crime, but that the four years' punishment has reformed the criminal. October twenty-ninth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Chas. H. Osborne---	San Francisco--	Manslaughter---	September, 1874--	Seven years.

DECISION.—Whereas, it appears from a careful examination of the case—the first jury having failed to agree and having now petitioned for his pardon, and the jury which convicted him having strongly recommended him to mercy—that there are reasonable doubts as to the justice of his conviction, and that his further punishment is not required either to vindicate the law or for his own reformation; and in view of which his pardon has been recommended and solicited by a large number of the most prominent citizens of the State. October twenty-ninth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Jno. Hauser-----	Santa Clara----	Murder in second degree.	September, 1870--	Twenty-five years

DECISION.—Whereas, on the twenty-first day of October, eighteen hundred and seventy-five, for reasons therein set forth, the said John Hauser was pardoned on the condition of leaving this State forever; and it appears to me from a further consideration of the case that the said condition of the pardon may with justice and propriety be removed, and the prisoner be restored to all the rights and privileges to which he was entitled before conviction. November third, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Wm. Oregon Smith	San Francisco	Manslaughter ----	February, 1869	Ten years.

DECISION.—Whereas, he has now been imprisoned nearly seven years and has constantly conducted himself well, and I am convinced that, considering the circumstances of his crime and the character of the prisoner, his punishment has been ample. November fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Leopold Eckstein	San Francisco	Forgery -----	March, 1872-----	Seven years.

DECISION.—Whereas, he has now served more than half his term, and has earned under the law two hundred and thirty-two days commutation for good conduct; and in view of his previous good character, his pardon has been solicited and petitioned for by all the parties injured by his crime, by the Judge who sentenced him, and by the officers of the Court wherein he was tried. November fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Charles Muller-----	San Francisco	Felony-----	August, 1873-----	Three years.

DECISION.—Whereas, his pardon has been petitioned for by a large number of men acquainted with the facts and circumstances of his crime and conviction; and the Judge who sentenced him joins in the petition and states that one year in the prison would have been punishment enough for the offense, but that the law compelled him to affix the penalty at three years, two of which have already been served. September fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
William Gregg-----	Alameda-----	Robbery-----	January, 1868---	Ten years.

DECISION.—Whereas, the term of his sentence has now nearly expired; his conduct has been good; his pardon has been solicited by good citizens, including the victim of his crime; his associate in the robbery, equally guilty with himself, was discharged from prison a year ago; and the physical condition of the prisoner is such that unless he be released from confinement his health will be completely ruined. Pardoned upon the condition that he leave the State on or before October first, A. D. eighteen hundred and seventy-five, and never returns. September fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Henry D. Cresswell	San Francisco	Burglary -----	January, 1868---	Twelve years.

DECISION.—Whereas, the prisoner has now served nearly eight years of his sentence, and has so conducted himself as to merit and obtain the constant approval of the prison officers, and to justify the belief that he is completely reformed, and that his further imprisonment is not necessary, either to himself or to the State. September fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Louis C. Pilsbury---	Sacramento---	Forgery-----	October, 1874----	One year.

DECISION.—Whereas, his term of sentence will expire in a few days, and there is reason to believe that the harsh lesson of his imprisonment has so impressed him that he will fully appreciate the mercy that restores him to all the forfeited rights and privileges of citizenship, and will hereafter resist temptation and avoid criminal acts. September ninth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Thomas J. Partin	Humboldt ----	Assault to commit rape.	September, 1874	Three years.

DECISION.—Whereas, after a careful examination of the case, and the statements made by the County Judge, the District Attorney and his assistant, and the attorney for the defense, based upon facts which have come to light since the trial and conviction, I am convinced that the trial resulted from a conspiracy, and the conviction was subversive of justice; which conclusion is strengthened by the several verified petitions for his pardon, on the ground of innocence, signed by most of those residents of the county capable, from their own knowledge and observation, of best knowing and judging the case. September tenth, eighteen hundred and seventy-five.

Names of Prisoners.	County.	Crime.	Sentenced.	Term.
Fong Ah Yee and Ah Shak-----	Santa Barbara	Robbery - ----	December, 1874--	Two years.

DECISION.—Whereas, from evidence now before me it appears conclusively that the accusation of robbery was false, being inspired by a rival Chinese company, and established by Chinese witnesses, the motive being hatred, and the object revenge; in consideration of which their pardons have been petitioned for by all of the jurymen who tried the case, and by many of the principal citizens of Santa Barbara. September thirteenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
K. H. Keeny-----	Tulare-----	Murder-----	June, 1872-----	For his natural life, under a commutation of sentence.

DECISION.—Whereas, the Legislature of this State recommended his pardon nearly two years ago; his pardon has been solicited and petitioned for by a very large number of people; his conduct in prison has been excellent, he is not a criminal by nature, and for reasons set forth in the commutation of his sentence, February sixth, eighteen hundred and seventy-three, I believe his punishment to have now been sufficient to vindicate the law, and am fully convinced that his further imprisonment is not necessary for purposes of reformation. September thirteenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Adolph Servatius...	San Francisco	Arson, 2d degree...	March, 1873.....	Three years.

DECISION.—Whereas, his conduct has been good; his term of sentence will expire in a few days, and his friends earnestly solicit that he be given the opportunity to reform afforded by a full pardon. September sixteenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Ah Shim	San Francisco	Murder, 2d degree.	July, 1864.....	Twenty years.

DECISION.—Whereas, he has now been imprisoned more than eleven years, and has uniformly obeyed the prison rules and conducted himself with marked propriety, giving constant evidence that he is not a vicious or dangerous man by nature, and warranting the conclusion that his long incarceration has been ample punishment, and that no good purpose would be served by requiring the full term of his sentence to be carried out. September sixteenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Lucena Dean.....	San Francisco	Grand larceny....	November, 1874..	One year.

DECISION.—Whereas, the term of her imprisonment will expire by law in a few days, and it appears by the certificate of the physician and surgeon at the prison that she is now lying dangerously ill, and will probably die, unless furnished such diet and attendance as cannot be supplied at the prison; and her friends are anxious to take immediate charge of her and provide for her. September seventeenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Henry Varney	San Francisco	Attempt to commit burglary.	March, 1874.....	Five years.

DECISION.—Whereas, due notice of intention to apply for his pardon has been given and published, without resulting in objection or remonstrance from any source; he has been imprisoned nearly one and one-half years, and has conducted himself with strict propriety; and his pardon has been petitioned for by a large number of well-informed citizens acquainted with the prisoner and familiar with the circumstances of the crime, including the Judge who tried and sentenced him. September twentieth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
James McLaughlin	San Francisco	Manslaughter	January, 1872 ...	Ten years.

DECISION.—Whereas, from a careful examination of the circumstances of the case it appears that the unfortunate crime was more accidental than intentional; the punishment has already been severe, and his pardon has been petitioned for by the District Attorney and Chief of Police

at the date of his crime, as well as by a large number of prominent citizens, and was recommended by the Legislature of this State at its last session. September twenty-fifth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Homer E. Snediker	Mariposa.....	Manslaughter	June, 1873	Three years.

DECISION.—Whereas, a careful review of all the testimony given at his trial, and considerations of the statements and arguments presented by petitioners for his pardon, convinces me that the homicide was involuntary, and that the conviction, which was had only upon the third trial, was owing more to the mandatory charge given to the jury than to the guilt of the prisoner; and his pardon has been solicited by the Judge who sentenced him, by most of the officers of Mariposa County, and by a large number of prominent citizens. September twenty-eighth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Henry Ploeger	Contra Costa...	Manslaughter	November, 1873..	Six years.

DECISION.—Whereas, notice of intention to apply for his pardon has been duly published, and no objection or remonstrance has been received; and in view of the mitigating circumstances of the case, and of the strong probability that the homicide was committed under the belief that it was in self-defense, his pardon has been recommended by the Judge who sentenced him, and by many prominent citizens. October eleventh, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Arthur Tanner.....	San Francisco	Embezzlement....	September, 1874	Three years.

DECISION.—Whereas, it appears from an examination of the circumstances of this crime that the prisoner is not criminal by nature or practice, that he had maintained a good character for industry and integrity, and the interests of the State, or those of society, did not require his severe punishment, which has already been more than sufficient. November fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
George Pretorius....	San Francisco	Assault with intent to commit rape.	January, 1874 ...	Two and one-half years.

DECISION.—Whereas, his pardon has been solicited by the Judge who sentenced him, the Assistant District Attorney, the Chief of Police, the Captain of the Detective Police, and other well-known citizens of the City of San Francisco, they believing that justice has been fully satisfied, and from a knowledge of the facts I concur in their opinions. November eighth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Jno. Mathias-----	San Francisco--	Grand larceny----	March, 1874-----	Two and one-half years.

DECISION.—Whereas, I am thoroughly convinced of the reformation of the prisoner, and am satisfied that his restoration to the privileges of citizenship will not be a wrong to society, while the mercy thus extended to him will act as an incentive for his future good conduct. November eighth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
James Doran-----	San Francisco--	Robbery-----	November, 1874--	Three years.

DECISION.—Whereas, the prisoner was but seventeen years of age when he committed the robbery, and the punishment he has already undergone has been severe enough to reform him; and in consideration of his character for industry prior to the commission of this crime, and his exemplary conduct while in prison, I am convinced his release will act as a beneficial incentive for his future guidance. November ninth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Daniel Murray-----	San Francisco--	Forgery-----	November, 1875--	One year.

DECISION.—Whereas, the circumstances of the forgery and the character of the boy were such that, although a verdict of guilty was found, a petition for his pardon was at once prepared and signed by the prosecuting attorney, the Judge who sentenced him, all of the jurors in the case, all of the parties injured by the crime, and others familiar with the facts; and I am convinced that the disgrace of his conviction is a sufficient punishment, and that if he be given this opportunity he may redeem himself and become an honorable citizen. November fifteenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Otto Swartzwalter--	Nevada-----	Highway robbery--	May, 1875-----	Four years.

DECISION.—Whereas, due notice of application has been published without eliciting any objection or remonstrance; circumstances of a mitigating character have come to my knowledge; a painful accident, while in the prison, has probably crippled him for life. His release has been urgently solicited by the Judge who sentenced him, the District Attorney, and by a large and respectable number of the most influential citizens of Nevada County. Pardon on condition that he departs from California on or before the fifth of December, eighteen hundred and seventy-five, and never returns. November twenty-third, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Ah Sung-----	San Francisco--	Burglary-----	January, 1874--	Three years.

DECISION.—Whereas, grave doubts are entertained as to the guilt of the defendant, and under any circumstances I believe his punishment has been sufficient. November twenty-third, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
A. H. Hening-----	Yolo-----	Murder, 2d degree--	May, 1871-----	Twenty-one years.

DECISION.—Whereas, this pardon is asked for by the Judge who sentenced him, who says: "From what I have learned of the case at the trial, and what I have heard since, I think that the law has been fully vindicated, and that this is a proper case for the exercise of the pardoning power." Also, a petition signed by ten of the jurors before whom he was tried, the District Attorney who prosecuted him, all of the county officers and Board of Supervisors of Yolo County, and a very large number of well-known citizens of said county. After careful consideration of the evidence, I am convinced of the justice of a pardon. Pardoned on condition that he departs from this State on or before January first, A. D. eighteen hundred and seventy-six, and never returns. December second, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Daniel Ramsay-----	San Francisco--	Robbery-----	February, 1871--	Ten years.

DECISION.—Whereas, he has served nearly half of his time; is, in my judgment, thoroughly reformed; has friends able, ready, and willing to befriend him; and in this case justice will not be injured by being tempered with mercy. December second, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Manuel Espinosa---	Santa Clara----	Grand larceny----	March, 1868-----	Ten years.

DECISION.—Whereas, he will soon be released by expiration of his sentence, and friends having promised to aid and befriend him, a few days more or less of confinement will neither aid justice nor reform the prisoner. December third, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Diego Gutierrez-----	San Francisco--	Felony-----	May, 1873-----	Three years.

DECISION.—Whereas, his expiration of sentence is near at hand, his conduct has been good, and there are mitigating circumstances in his favor which satisfy me that he is not criminal by nature. December third, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Charles Haley	San Francisco	Burglary	April, 1870	Seven years.

DECISION.—Whereas, his term of sentence, with deduction of credits, has almost expired; the sentence was a severe one, the conduct of the prisoner has been unusually good, and I am satisfied that his release at this time will work no injury to society or interfere with any legal rights. December third, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
E. Lee	Nevada	Burglary	May, 1869	Ten years.

DECISION.—Whereas, he has already served more than half of his sentence—a punishment greater than the offense demanded, and particularly so when it is doubtful whether he was a participant in the crime for which he has certainly fully expiated. December third, eighteen hundred and seventy-five.

LIST OF PARDONS FROM COUNTY JAILS, GRANTED BY GOVERNOR PACHECO,

From March 9th, 1875, to December 7th, 1875.

Names of Prisoners.	County.	Crime.	Sentenced.	Term.
John Wilson and Michael Healy.	San Joaquin	Resisting officer in discharge of his duty.	September, 1874	One year and ten and a half months.

DECISION.—Whereas, facts have come to light since their trial and conviction that materially mitigate their offenses; and the Judge before whom they were tried, the District Attorney who prosecuted them, the Sheriff of the county, and other prominent officers and citizens, have petitioned for their pardon on the ground that they have already been sufficiently punished; and the circumstances of their cases warrant the belief that the ends of justice are fully satisfied by the imprisonment they have now undergone. March ninth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Adeline Carver	Sacramento	Assault and battery	February, 1875	Six months.

DECISION.—Whereas, at the time of her conviction the victim of her assault was supposed to be seriously injured, which the attending physician now certifies was not the fact; and the

Police Judge and prosecuting attorney have requested that a conditional pardon may be granted to her. This pardon is granted on the condition that she departs without delay from the City of Sacramento, and does not return thereto for the period of one year. March ninth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
John Kane	Napa	Battery	December, 1874	Five months.

DECISION.—Whereas, his pardon has been petitioned for by the Justice who sentenced him, and by nearly every officer of Napa County, for the reason that his conduct since his conviction has greatly mitigated his offense, and the punishment he has now undergone is sufficient. March twenty-fifth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Luca Marasovich	Los Angeles	Assault and battery	July, 1874	One year.

DECISION.—Whereas, the prisoner has now served out the greater portion of his sentence, and is suffering from a painful disease caused by his imprisonment; and notice of intention to apply for his pardon has been given by publication according to law, without occasioning protest or remonstrance; and by a petition, numerously signed by prominent citizens of Los Angeles County, it is asserted that he is not guilty of the offense for which he is imprisoned, but was convicted by a prejudiced jury. April twelfth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Charles Ludwick	Sacramento	Petit larceny	April, 1875	Six months.

DECISION.—Whereas, the prisoner is a young boy; his offense was comparatively a trifling one; and, in view of the desire of his relations to remove him to San Francisco and place him in a school and provide for him, the Police Judge and the District Attorney of Sacramento County have recommended his pardon. May seventh, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Geo. Mankin	Sacramento	Petit larceny	April, 1875	Six months.

DECISION.—Whereas, it has been found advisable to pardon his companion in the larceny, equally guilty with himself, and common justice requires that he should receive equal consideration; and the Judge who sentenced him recommends his pardon, the prisoner being a mere boy, whose relations have now made arrangements to properly govern and care for him. May tenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Tim Maxwell -----	Sacramento ---	Battery -----	May, 1875 -----	Thirty days.

DECISION.—Whereas, the Judge who sentenced him now petitions for his pardon, and sets forth that he has been imprisoned for sixteen days, that he is not a bad man, but, on the contrary, is well-disposed; and further, that he has a family dependent on him for support. May twenty-sixth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Wm. W. Watson----	San Joaquin---	Misdemeanor----	January, 1875 ---	Ten months.

DECISION.—Whereas, his offense was comparatively trifling; he has now been imprisoned seven months; and his pardon has been petitioned for by most of the county officers and a large number of the prominent citizens of San Joaquin County, on the ground that he has been sufficiently punished. July ninth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Mrs. B. Lawson ----	Sacramento ---	Disturbing the peace.	June, 1875 -----	Thirty days.

DECISION.—Whereas, out of sympathy for her husband, pity for her two small and helpless children, and in the hope that a release from the disgrace and pain of a jail may reform her, the Judge who sentenced her has petitioned for her pardon, which has also been solicited by many respectable citizens. July tenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Franklin Hadly----	Napa -----	Assault with deadly weapon.	December, 1874--	One year.

DECISION.—Whereas, the pardon of the defendant has been asked for by leading and influential citizens of Napa County, by the Sheriff of said county and his deputies, the District Attorney, Assessor, and other officers of the county. I am satisfied that the assault committed by the defendant was not of such a character as to demand so severe a sentence. He has now been in jail seven months, which term in my judgment has been of sufficient duration to have fully expiated his crime. His petitioners state "that his restoration to liberty would give to usefulness a good and useful citizen." July twenty-third, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Thomas Eagan-----	San Francisco--	Assault and battery	August, 1874-----	Five hundred and twenty days.

DECISION.—Whereas, the Committee on Health and Police of the City of San Francisco, who have given the case consideration, urge his pardon on grounds that are just and reasonable, and

which are indorsed by the Mayor of said city, eight members of its Board of Supervisors, the Auditor and Sheriff of said city and county. They are fully satisfied of his reformation, and believe "that his future conduct will be that of an industrious man and a good citizen." August fourth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Peter Wöll-----	San Francisco--	Assault and battery	September, 1875-	Fifty days or fine of \$100.

DECISION.—Whereas, from statements laid before me it seems more than probable that the prisoner is innocent of the offense charged against him, while it is certainly true that his wife and family are destitute and suffering, and in great need of their natural protector. September sixteenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Francisco Castro----	Sacramento----	Embezzlement---	June, 1875-----	Six months.

DECISION.—Whereas, it has been satisfactorily proven to me that the evidence against the defendant was of a circumstantial and doubtful character; he has already served more than half of his term; has conducted himself with propriety while in prison; has a family dependent upon him for support, and his pardon has been solicited by the Chief of Police, Police Judge who sentenced him, the District and City Attorneys, several Police officers, and others having full knowledge of the circumstances of this case. October second, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Charles Bealitz----	El Dorado-----	Assault with deadly weapon.	March, 1875-----	Two hundred and fifty days in default of fine of \$250.

DECISION.—Whereas, he has now served four-fifths of the said sentence, and his pardon has been strongly petitioned for on the ground of his previous long-established good character in the community where he resides. October twenty-first, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Louis Curasco-----	San Francisco--	Simple assault----	March, 1875-----	Imprisonment in default of fine of \$500.

DECISION.—Whereas, notice has been duly given for the pardon of defendant, and no objection has been made thereto; he has already been incarcerated nearly eleven months, which has been ample atonement for his offense; his youth and previous good character, vouched for by many well-known and respectable citizens, has induced me to grant this application for his release. November third, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Charles Lee.....	San Francisco..	Assault and battery	August, 1875....	Six months.

DECISION.—Whereas, his punishment has been sufficient, and his pardon has been asked for by the prosecuting witness, the arresting officer, the Sheriff, chief jailer and his assistants, and a number of citizens of well-known respectability. December seventh, eighteen hundred and seventy-five.

REPRIEVES OF SENTENCE,

GRANTED BY GOVERNOR PACHECO,

From March 15th, 1875, to September 3d, 1875.

Names of Prisoners..	County.	Crime.	Sentenced.	Sentence.
José de Jesus and José Acama.	San Diego.....	Murder in first de- gree.	November, 1874....	Death.

DECISION.—Whereas, upon the petition and showing of officers of the said County of San Diego, I am satisfied that the execution of the said sentences ought to be postponed; and the Sheriff of San Diego County is directed to postpone the execution of the said sentences eighty-nine days, and to carry the said sentences into effect on Friday, the eighteenth day of June, A. D. eighteen hundred and seventy-five. March fifteenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Sentence.
William Dona.....	Stanislaus.....	Murder, 1st degree..	January, 1875....	Death.

DECISION.—Whereas, at the January Term, A. D. eighteen hundred and seventy-five, of the District Court of the Fifth Judicial District, held in and for the County of Stanislaus, William Dona was tried and convicted of the crime of murder in the first degree, and sentenced to death, and the date of his execution fixed on the nineteenth day of March, A. D. eighteen hundred and seventy-five. And whereas, a sworn statement, signed by Miner Walden and L. C. Branch, two prominent citizens of the said Stanislaus County, sets forth and shows, "that such evidence exists and can be produced, and which was not produced on the trial, as will justify a commutation of the sentence to imprisonment for life, as follows: that the defendant was told by Driscoll that Connelly (the deceased) was a dangerous man; that he had better look out for him; that he, Connelly, had been following him, the defendant, up all day, and wanted a fight; and that he, Connelly, had pointed a pistol at his, Driscoll's, mouth, only a day or so before, or words substantially to that effect; that the character of said Connelly, the deceased, can be proved to be bad; that he was of a quarrelsome, disorderly disposition; that he generally went armed, and that he had threatened the life of the defendant; while the character of the said Dona can be proved to be good and respectable—not inclined to be quarrelsome or disorderly, but on the contrary, peaceable and remarkable for quiet and good order; that hundreds of citizens of said county will, if time is granted, ask that the sentence be commuted to imprisonment for life; that a majority, if not all, of the jurors who tried the case will ask that the sentence be commuted to imprisonment for life." And whereas, a petition, numerously signed by prominent citizens and

officers of the said Stanislaus County, has been this day telegraphed to me, praying for a postponement of the execution of the said sentence, and I am compelled to believe, from the high character of those who petition for a stay of proceedings, that the alleged newly-discovered evidence may be of such a character and nature that a commutation of the sentence might justly result from its consideration, and am therefore unwilling to deny the application for delay, although the testimony taken upon the trial shows conclusively the truth of the verdict and the justice of the sentence. I do hereby direct the Sheriff of Stanislaus County to postpone the execution of the said sentence, and to carry the said sentence into effect on Friday, the second day of April, A. D. eighteen hundred and seventy-five. March nineteenth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Sentence.
José Acama.....	San Diego.....	Murder, 1st degree..	November, 1874....	Death.

DECISION.—Whereas, José Acama was convicted of the crime of murder in the first degree, was sentenced to death, date of execution fixed on the nineteenth day of March, A. D. eighteen hundred and seventy-five, which date was changed by a reprieve issued March fifteenth, A. D. eighteen hundred and seventy-five, changing the date of execution to the eighteenth day of June, A. D. eighteen hundred and seventy-five. And whereas, upon the petition and showing of the proper authorities of the said County of San Diego, that the said José Acama is the principal witness in an atrocious murder case, and it is necessary to the ends of justice to grant him a reprieve in order to secure his attendance at the trial. Now the Sheriff of San Diego County is directed to postpone the execution of the said sentence ninety-one days, and to carry the said sentence into effect on Friday, the seventeenth day of September, A. D. eighteen hundred and seventy-five. June twelfth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Sentence.
Felisario Alipas....	San Diego.....	Murder, 1st degree..	April, 1875.....	Death.

DECISION.—Whereas, a telegraphic message, signed by "A. Rothschild, a member of the Grand Jury, and others," has just reached me, informing me that the said Felisario Alipas, a boy seventeen years of age, "is now crazy, owing to his extreme youth and ignorance." And whereas, if the murderer be really demented, he should not be put to death by authority of law; and the few minutes that remain before the sentence must be carried out leave me no alternative but to grant an immediate reprieve of the said sentence in order that the question of his sanity may be fairly determined. Now, the Sheriff of San Diego County is directed to postpone the execution of the said sentence sixty-three days, and to carry said sentence into effect on Friday, the third day of September, A. D. eighteen hundred and seventy-five. July second, eighteen hundred and seventy-five.

COMMUTATIONS OF SENTENCE,

GRANTED BY GOVERNOR PACHECO,

From June 5th, 1875, to December 6th, 1875.

Name of Prisoner.	County.	Crime.	Sentenced.	Sentence.
José de Jesus, indicted as Jesus Sordo.	San Diego-----	Murder, 1st degree.	November, 1874--	Death.

DECISION.—Whereas, I am fully convinced after careful and repeated examination, analysis, and consideration of all the testimony given at the trials of the prisoner and José Acama, that the said José de Jesus was not guilty of either planning the murder or aiding in its perpetration, but was in reality only the accidental accomplice of the said José Acama. And, notwithstanding his guilty silence for years and his participation in the crime after its commission, it appears to my mind that the measure of his guilt cannot be justly determined by rules of common value and application, because he has the misfortune to be an Indian, young, ignorant, quite deaf, without moral training, and lacking the inherited capacity to perceive and act upon his obligations to organized society. Let his sentence be commuted to imprisonment in the State Prison for the term of his natural life. June fifth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Sentence.
Lee Ah Chow-----	San Francisco--	Murder, 1st degree.	February, 1875--	Death.

DECISION.—Whereas, after carefully examining and considering the testimony given at the trial, and that adduced upon the trial of the question of his sanity before a special jury, I am compelled to believe that he is of a very low grade of intellect, and is destitute of moral responsibility; that the atrocity of the murder, the demeanor of the prisoner at the time and continuously since, and the circumstances and evidence of the case show that at the moment of its perpetration he was undoubtedly insane; that his probable normal condition is that of partial, if not complete, insanity; and that neither justice nor an enlightened policy requires the infliction of the death penalty upon an irresponsible criminal, whose execution would appear like the vengeance of a State upon a partially demented wretch; and, whereas, the grave doubts as to his capability to distinguish between right and wrong, that are the just inference of every feature of his crime and conduct, are strengthened by the fact that the Judge before whom he was tried, many of the jurors who found him guilty, all of the jurors before whom the question of his sanity was tried, all of the examining medical experts in the case, the Court Commissioner, the Superintendent of the China mission, and many others, have petitioned for a commutation of his sentence, although he is a friendless outcast whose life is without value to society, and whose qualities can invoke no sympathy, except that which may result from the natural humanity that revolts from the possibly unjustifiable shedding of human blood by process of law. Let his sentence be commuted to imprisonment in the State Prison for the term of his natural life. June twenty-eighth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Juan B. Bruzzo-----	San Francisco--	Murder in second degree.	October, 1863----	Life.

DECISION.—Whereas, the prisoner, with one Nicholas Pizarro and a woman named Pasqueline Secari, were found guilty of murder in the second degree, in the killing of Secari, the husband

of the woman above mentioned. Both Pizarro and Secari have been pardoned, while the prisoner, the least guilty of the three, as appears by the statement of the then prosecuting attorney, has been suffered to linger in prison. There is no justice in such punishment. He has already served twelve years in prison, and under the circumstances deserve a remittance of his sentence. Let it be commuted to imprisonment in the State Prison for the term of one year from this date. December second, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Geo. Chabriet -----	San Francisco--	Murder in second degree.	April, 1869-----	Life.

DECISION.—At the time of his trial he was entirely friendless, and had no means to defend himself. I am satisfied he would never have been convicted of the crime for which he has been sentenced with a life imprisonment, had he been properly defended. Both justice and mercy can be served by a commutation of his sentence. Let it be commuted to imprisonment in the State Prison for the term of ten years from this date. December eighth, eighteen hundred and seventy-five.

Name of Prisoner.	County.	Crime.	Sentenced.	Term.
Ramon Sepulveda --	Los Angeles---	Murder in second degree.	March, 1871-----	Seventeen years.

DECISION.—Whereas, it appears from the testimony of several respectable and well-known citizens of Los Angeles County that the crime committed by the prisoner was not premeditated, intentional, or willfully done, but was really an act of self-defense. An undue excitement against the prisoner existed at the time of his trial, doubtless affecting his term of sentence. Due notice has been given for his pardon, and no objection made thereto, while a very large number of citizens thoroughly conversant with the facts of the case have petitioned for his pardon. Let his sentence be commuted to imprisonment in the State Prison for the term of six months from date. December sixth, eighteen hundred and seventy-five.

RESTORATIONS TO CITIZENSHIP, BY GOVERNOR ROMUALDO PACHECO,

From March eighth, eighteen hundred and seventy-five, to November second, eighteen hundred and seventy-five.

Persons Restored.	County.	Crime.	When Sentenced.	Term.	When Restored.
Collin Douglas	Sacramento	Burglary	October, 1868	Five years	March 8th, 1875.
James Rosetter	Yolo	Burglary	March, 1864	Three years	March 13th, 1875.
William White	Placer	Grand larceny	October, 1863	Ten years	June 9th, 1875.
Frank McCann	Contra Costa	Manslaughter	July, 1864	Ten years	November 2d, 1875.

State Prison.
etc.

REPORT

OF THE

ASSEMBLY SPECIAL COMMITTEE

APPOINTED TO INVESTIGATE THE AFFAIRS OF THE

GOLDEN GATE PARK, SAN FRANCISCO.

REPORT.

ASSEMBLY CHAMBER,
SACRAMENTO, March 31st, 1876. }

Mr. SPEAKER: Your special committee appointed to inquire into the affairs and management of the Golden Gate Park, in San Francisco, beg leave to report:

In the course of their examination they have visited San Francisco twice, and examined forty-one witnesses, whose testimony has been printed and presented to the House, and which your committee ask may be considered as a part of this report.

The primary inducements for this investigation were certain derelictions in the management of the park, suggested to the House by Hon. D. E. Sullivan. These suggestions were based upon certain letters, affidavits, and other information put in his hands. As the author of the resolution raising this committee, Mr. Sullivan was appointed its Chairman. Subsequently, circumstances arising in the progress of the investigation, and certain attacks upon him by parties connected with the park, induced Mr. Sullivan, the then Chairman, to resign. The contest over this matter also resulted in an order of the Assembly withdrawing from the committee the testimony taken up to that time and ordering it printed. These movements, with some others, greatly embarrassed the actions of the committee.

As was said by one of the committee at the second session in San Francisco, the committee were almost completely ignorant of the management of the affairs or finances of the park. They were, therefore, compelled to institute a private investigation to obtain sufficient data, if any, upon which to proceed. An explanation of this will be found on page twenty-nine of the printed testimony. Upon the strength of the information thus secured, the committee proceeded with the investigation, and its results are now presented.

In addition to the oral testimony taken the committee examined the books, papers, and accounts of the commission, so far as applicable to the subjects presented for consideration. They also made two visits to the park, to afford the Superintendent an opportunity to exhibit the results of his labors, and, indeed, some of the testimony was taken there.

While we deem it but proper to express the highest confidence in the strict integrity of the Park Commissioners, we would fail to express our true feelings and positive determination, from the evi-

dence presented, did we not condemn their disposition to rely entirely on the judgment and recommendations of their employés. The Commissioners, however, receive no salary. They are men of wealth, having large private interests, which doubtless demand nearly if not all their time. It may be therefore unreasonable on the part of the people, whose money they expend, to expect from them that strict attention to details which we might naturally look for in salaried officers.

The Commissioners having found a Superintendent in whom they reposed every confidence, a relaxation of watchful care on their part was the natural result. Almost every detail of the work, purchases, and expenditures, even the selection of the great majority of the subordinate officers, appear to have been left entirely in the hands of the Superintendent. In the matter of purchases, the practice thus pursued by the Commissioners cannot be too strongly censured. So far as their custom related to the employment of laborers, etc., the power was perhaps properly placed—in the Superintendent's hands.

The care of the park required the services of many workmen of peculiar qualifications. The Superintendent is but a civil engineer, not claiming to be a landscape gardener, botanist, florist, or horticulturist. Yet he appears to have been intrusted largely with the power of employing the persons to occupy such positions. The places mentioned should be filled by persons selected by the Commissioners, after strict examination into their qualifications.

A mass of testimony has been taken by the committee as to details of extravagance in the management of the park. Concerning this branch of the investigation they feel inclined to refer to the testimony itself, rather than enter into the minutiae detailed by the various witnesses. The following points may with advantage be briefly referred to:

First—The system of tree-planting now and heretofore carried out has resulted in a wanton and useless destruction of one-third of all the trees planted. This plan has been heartily indorsed and followed by the witness Poppey. He has cut down hundreds of valuable trees, three years old, and raised with great care, labor, and expense. These trees might, in the opinion of your committee, have been transplanted at a very small expense, and large sums of money thus saved; and brush fences, if necessary, could have been built of the natural brush on portions of the park, and which must at some time be removed.

Second—A well was sunk, and a pump, engine, and tank procured at a great expense. Twenty-five thousand gallons of water can be obtained from this source daily. Yet this source of water supply was used but a few months; and the park is entirely supplied by the Spring Valley Water-works, leaving the well and its apparatus entirely unused. Two years ago the Commissioners contracted with the water company for four hundred dollars per month. This sum was paid for but two months; and there now remains due the company about — dollars, depending upon the decision of the Supreme Court in the pending water litigation. The Commissioners' contract was for one year; but at the end of that contract they should, under the circumstances, have availed themselves of their own supply, and thus lessened the debt, if any, to the company.

Third—A cut on the new northern drive, originally intended for a tunnel and so marked on the map, we consider a piece of deliberate

extravagance. There existed no necessity for the so-called improvements. It never could as a tunnel, and can now less as an open cut, be any addition to the beauties of the park. As good if not a better road could have been built to the northward, and at a vastly less expense. Some natural beauties, rare in the neighborhood, have been effectually destroyed by it, and the unfortunate part of the affair is that the bad work has so far progressed that it must now be completed.

On the southern drive a large amount of unnecessary cutting and filling has been done, and while work of this character has been pushed with energy, the committee failed to find any great amount of provision for pedestrians visiting the park. Walks should immediately be built through the improved portions that the people of San Francisco may be able to make some practical use of their chief breathing place.

Fourth—By the system of accounts adopted by the Commission it is impossible to arrive at the cost of any large work. The Secretary himself admits this. Your committee endeavored to learn the cost of the cut to this time, but without avail. This should be remedied. Several men are employed at the park making daily reports of the number of vehicles, visitors, etc. These may be useful in showing the popular use of the park, but they serve no other end.

Fifth—The Superintendent receives a salary of four hundred dollars per month, and the people are certainly entitled to his entire time; yet we find him making surveys in San Mateo and Marin Counties. He has taken private contracts for the reclamation of private lands adjoining the park, and in the latter there is the evidence of the witnesses Burns and Ward as to the manner in which they were in part paid for their services.

The amount involved is small, but the fact exists. Had the Commissioners held the Superintendent strictly to his official duties, the committee would not now be compelled to censure his conduct in this matter. While the sale of surveying instruments, tents, etc., by the Superintendent to the Commission, may have been made for the fair value of the articles, yet the articles were old and had been long in use, and there is some testimony showing that the price paid was far above the market value. The committee desire merely to express the opinion that sales by public officials to the people, while such official is both seller and buyer, should be avoided by officials who hope to escape animadversion.

Prior to the appointment of Mr. Hall as Superintendent of the park, he had, under a contract with the Commissioners, made a topographical survey of the park, and as a part of his contract he placed certain granite monuments to designate certain points in his survey. The testimony of several witnesses, the admission of Mr. Hall himself, and his own first biennial report taken together, show conclusively that he removed from the park a number of the monuments so placed by him, and used them in one of his private surveys at San Rafael. It is only necessary here to refer to the testimony of Mau, Hodnett, and Mr. Hall himself, to show these facts. The cash value of the monuments can scarcely be considered as the true question involved. The monuments, if for any purpose, were intended to permanently mark certain points and lines. Now, these monuments removed, is not every evidence of boundary distance and direction destroyed? Are not new surveys rendered necessary when

any work shall be attempted? These are but a few of the risks incurred by the removal of permanent monuments, confessedly the property of the people.

The witness Enright has placed himself in a rather unenviable position. When called by the committee, he pleaded the densest ignorance of any sale by him of cord-wood belonging to the park. In a later examination, when recalled by Mr. Hall, he testified distinctly that he had sold several cords of wood to one Doyle, and received the payment therefor. These moneys have never been accounted for to the Commissioners, and in no manner appear upon their books. The Secretary was interrogated specially upon this point and acknowledged that no entry of such moneys could be found by him in the books of the Commission. Peculations of such a character, accompanied as they have been by something akin to perjury, deserve more than passing notice. They but sustain and illustrate the views of the committee above expressed, upon the looseness of the general management of affairs on the part of the Commissioners, and their over-confidence in the integrity and honesty of their employés.

The matter of five hundred dollars paid by the witness Brady to one T. P. Riordan, for some mysterious purpose, was deserving of serious consideration, but the inability of the committee to procure the attendance of the most important witnesses of the transaction, debars the committee from presenting any opinion upon the subject.

To conclude: Your committee recognize, to a large degree, the amount and value of the work already done upon the park. It was found by the Commission almost a desert. They have succeeded in bringing a large portion of it to a state verging upon perfection, and the remainder is in a fair way to the same result.

The improvements, if some of them can be so called, have, in several instances, been improvidently made; but, in the main, good results have been attained. For the reasons above stated we are unable to determine whether a fair and honest judgment has been exercised in the expenditures incurred in producing these results. The committee cannot say that the management of the Commissioners has been bad; but they reiterate the charge of laxity and over-confidence in their employés. The reasons for this have been set out above. Indeed, did time permit, it could be satisfactorily shown that a State Commission is scarcely the proper quarter in which to place the management of a matter that belongs peculiarly to San Francisco, and the entire expense of which falls upon her alone. Were the management local, difficulties such as have been detailed above could not possibly arise. As at present constituted, there is no direct responsibility on the part of the Commissioners to the people of San Francisco; and this is naturally followed by a certain amount of disregard for the wishes of the people of that city.

The Golden Gate Park ought to be considered as the pleasure ground of the San Francisco of the future, and so treated. The older cities of the East have felt impelled to furnish, at vast expense, similar grounds for their peoples. The progressive West cannot be blind to a necessity that experience has forced upon the East, and should be liberal in her appropriations for the maintenance and improvement of our prototype of the great New York Central Park. But, while your committee would thus urge a large liberality in the premises, they would insist upon a close regard, on the part of the

management, to details, a more watchful supervision of employés, a restriction of the powers of subordinates, especially in the matters of purchases and proposal and prosecution of the larger works, and, generally, we would insist upon personal care and attention necessary to produce an efficient and economical administration of affairs commensurate with the interests intrusted to them.

These views of your committee carried out, the Golden Gate Park could be made what it ought to be, an immediate benefit to the City of San Francisco, and a matter of pride and credit to the State at large.

Respectfully submitted,

CARSON, Chairman,
BRODERICK,
BARBER,
RAISCH.

TESTIMONY

TAKEN BEFORE THE

ASSEMBLY SPECIAL COMMITTEE

APPOINTED TO INVESTIGATE THE AFFAIRS OF THE

GOLDEN GATE PARK, SAN FRANCISCO.

TESTIMONY

IN THE MATTER OF THE INVESTIGATION OF THE AFFAIRS OF THE GOLDEN
GATE PARK, BEFORE ASSEMBLY COMMITTEE.

SAN FRANCISCO, January 13th, 1876.

J. W. HODNETT sworn :

Mr. Sullivan—Were you employed in Golden Gate Park ?

Answer—Yes, sir.

Q.—About what time were you employed there ?

A.—It has been so long ago—my recollection of dates is not very good, but I was on the park the first time Mr. Hall went on the survey there. I was one of the first men ever went on there at the time of the first survey. I think I was discharged from there in eighteen hundred and seventy-two—about April, eighteen hundred and seventy-two, as near as my recollection serves me.

Q.—I see by Mr. Hall's report to the Park Commissioners at that time, where the principal item of expense was for stone monuments. Now I have been through that park myself looking for those stone monuments. Some of them were taken away. Do you know any thing about those monuments being there at that time ?

A.—Yes ; I know all about the stone monuments.

Q.—Tell what you know about those monuments ?

A.—It has been so long—my memory—I have not got the date of it ; but about the stone monuments, I have taken some from there.

Q.—What did you do with them ?

A.—I shipped them according to Mr. Hall's orders, to San Rafael.

Mr. Carson—Describe the monuments ; what use they had been put to there, and what Mr. Hall's directions to you were, if any, and what you did ?

A.—First of all, they were monuments to indicate the lines. It has been so long ago I can't recollect. I placed the monuments there. They were land-marks, of course, for the corners of streets and the avenues on different portions of the park. They may be some, from eighteen inches to three feet long ; on the top they were about six inches square, chiseled off. Most of them were bought, I believe. I can't recollect the price of them now.

Q.—What became of those monuments at the time you commenced grading ?

A.—I have been out at Fort Point with Mr. Hall on a survey there, and he sent me out here to the park to take those monuments up, as

he was doing work in San Rafael then—for the water company, I think it was, though I have not worked with him in San Rafael. He told me to send those monuments from the park up to San Rafael, and I did so. I don't recollect how many, but they were taken out of the avenue I know.

Q.—About how many?

A.—Well, I think there must be as many as eight or ten. I won't be positive of the number; it has been so long ago. I didn't pay any particular attention to it at all; in fact, never thought of the matter.

Q.—Were those monuments placed there for permanent use?

A.—Well, I see by the report—

Q.—Never mind the report. Do you know any thing of that kind? Are there any monuments out there?

A.—No, sir. I have not been out there in four years. Not since I left there.

Q.—What were they worth?

A.—I could not tell anything about it.

Q.—Where did you take them?

A.—I took them to the San Rafael boat. Shipped them to San Rafael.

Q.—Do you know anything further of them after that?

A.—No, sir; I do not.

Q.—Do you know whether they belonged to the city or to Mr. Hall?

A.—No, sir; I do not, unless you take my presumption. That, I suppose, you don't want.

Q.—No; we want your knowledge only—what you know. They were stone monuments?

A.—Yes, sir. Regular stone monuments.

Q.—In that portion of the park, that is, east of the great sand desert there, there was a great deal of wood, that is, trees growing there, and they were cut down? There was a great deal of wood piled up there, I noticed myself, in going through the park. Do you remember any wood piled up there?

A.—Yes, sir. I had charge of that wood for a long time, while I was on the park; had the cutting of it, and giving the men for cutting it so much a cord.

Q.—How much a cord did the men receive for cutting that wood?

A.—My recollection about that is not definite—what amount they were getting a cord.

Q.—You have no idea, have you?

A.—No. Well, I think they were getting three dollars a cord, to the best of my recollection.

Q.—Some of that wood was sold, was it not?

A.—Yes, sir. I sold wood there to parties, and I gave Mr. Hall the money. My orders were to deliver it on an order from Mr. Hall. I was ordered to get the money on the ground, and was to deliver it to any parties that applied for it.

Q.—Did you get any of that wood yourself?

A.—Yes, sir. I did.

Q.—Did you pay for that wood yourself?

A.—No, sir. And the reason of that was, I asked for my bill of wood, on several occasions of Mr. Hall, and he told me he would have vouchers made out for the amount, and I could pay for it, then.

The vouchers I never received, therefore I never paid for the wood. I forget whether it was one or two cords of wood I had.

Q.—Did you get an order from any foreman there, to deliver any amount of wood on Webster street?

A.—Yes, sir.

Q.—Where was that taken?

A.—It was taken to Mr. Hall's house. I got the order from Quigley. He was the other foreman. There was two of us. He had charge of the quarries, and I had charge of the grading department, and laying out roads there.

Q.—Did you deliver that wood to Mr. Hall's house?

A.—I delivered the wood according to his order. I showed the man where to take the wood from. I don't know what quantity they took. I told them there was the wood—they could take it. This man sent a team there for the wood.

Mr. Carson—What teams?

A.—The teams that were hired by the day on the park at that time. There were no teams belonging to the park at that time.

Q.—What did you usually sell that wood for by the cord?

A.—Well, I forget; about seven or eight dollars?

Q.—Have you any idea how many cords of wood you ever sold, altogether?

A.—No, sir; I have not. But I know that I have sold some, and gave the money to Mr. Hall; that was my orders, if I received the money. I think it was seven or eight dollars a cord; that I was to deliver it for the money, or an order from him.

Q.—How many cords of wood did you get orders that way, for your own use?

A.—I think one or two cords. I am not sure about whether it was one or two cords. I asked Mr. Hall if I could have it. He told me yes. I asked him once or twice—more than once, what the amount was, and he told me he would have a voucher made out to that effect, and then I could pay for it. I never got the voucher, and never asked for it, and never paid for it.

Mr. Raich—How many loads were delivered to Mr. Hall's house?

A.—Well, I can't recollect the number of loads. I pointed out a pile to the men. I didn't have charge of the teams that were working on the park at the time, and Mr. Quigley sent the teams for the wood from Mr. Hall. I don't know how many teams he did send. I pointed out the wood-pile, and told them there was the wood, and they could take it. I had so much to attend to besides that, I could not stand right there and see how many teams they were loading. There were twenty, or thirty, or forty piles there; I could not recollect now without the book. I had a book at that time, from which I make report to Mr. Hall of everything that transpired every day.

Q.—Do you know from whom money was received for wood?

A.—I have received money. I don't know where the wood was delivered.

Q.—You fetched some wood in which you received no money for it?

A.—Not to my recollection, unless I give you a report, and that I don't want to do.

Q.—Have you got that memorandum book you refer to?

A.—No; that was Mr. Hall's. It was the park day-book, which he carried out every day.

Q.—You mentioned the name of Quigley there. Is that the man that did all the hauling for Hall's house?

A.—No, sir; he was only foreman on the park.

Q.—You don't know whose wagons were engaged, do you?

A.—Oh, no; there was twenty or thirty carts at that time, hired by the day.

Q.—You can't tell how much wood he got?

A.—If I had my book, I think I could find it on that book. I set the foreman's work there every day for the month.

Q.—Do you know whether the Park Commissioners purchased manure of the different stables here, wherever they could get it?

A.—Well, I presume they did. That was the supposition. The manure came there.

Q.—Do you know that that manure was to be delivered by those men out there—that is, by the stable-keepers?

A.—Well, I have never known exactly about a contract to that effect, whether it was delivered. I suppose it was, but I have known of men on the park, that was working about it at that time, to bring manure with them there with their carts. About that, I can't say.

Q.—That was out of your line?

A.—Yes, sir; because I didn't have charge of the carts directly, unless it was something come through me, that way, of delivering anything.

Mr. Carson—Then you know nothing of that personally?

A.—Personally; no, sir.

Mr. Sullivan—There was a break occurred, if I remember well, in the Spring Valley Water-works out there, and I heard myself that Mr. Hall sent out some teams and some men to help the foreman out there in charge of that place, to stop the water?

A.—I sent those men and teams out myself.

Q.—And did the Spring Valley Water Company pay?

A.—Well, now, I will tell you the circumstances attached to that. It was in the winter time, and the foreman of Lake Honda came over there to me. I was continually on the park at that time because it was a new place, and so much washing out there. He came over there one morning and asked if I could let him have a force of men and some carts to stop the break in the lake. I told him I would. I had no authority to do so, but I would take it on myself to do so, as he said in case he had to send into town for a force of men he could not get them out there soon enough, without great damage to the place. So I think I sent eight or nine men, and three or four carts with him, for the day. I gave those men's time in the park at the time, and gave him the time as park work. But in the meantime a man came to me and told me if I would make out a bill what the amount was for the labor of those men and carts, he would pay me. I told him I would. The following day he came along; he had the bill made out himself—this foreman at Lake Honda; I forget his name—stating that it was correct, and to present to Mr. Miles at the Spring Valley Water Company's office in the city here, and it would be paid. The amount I forget, but I think it was along about twenty-eight or thirty dollars somewhere. I don't recollect the amount of that bill. I gave it to Mr. Hall, and told him the circumstances attached to it. I had told him previous to that.

Mr. Carson—Do you know anything further of it after that?

A.—Not after I gave the bill to Mr. Hall. That is all I know about it.

Q.—Do you know any other work of that character done by the men employed on the park, or carts belonging to the park, or hired by the Commission?

A.—Well, no, I do not; without bringing to my memory I can't think of it. I wouldn't think of those circumstances if they were not brought up.

Q.—Did Mr. Hall make any objection to your having done this, when you told him about that?

A.—No, sir.

Q.—Did he say you transcended your powers—anything of that kind?

A.—No, sir; not the first thing. He said it was all right; when I gave him the bill he said he thought it was a large sum for so much work.

Q.—You of course told him the reasons you did it?

A.—Yes, sir; in a case of emergency. The dam had broke away at the reservoir there, and if they had to wait to come to town and go back it would cause the whole side of the reservoir to be washed out.

Q.—Do you know anything about Mr. Hall keeping his horse at the park stable at that time?

A.—There was no stable there at that time. They had no property, with the exception of tools there.

Mr. Carson—Where is Mr. Quigley to be found now?

A.—Out at the park. He is foreman there over the horses, and everything like that.

Q.—What was the length of time you were employed on the park?

A.—Well, I was the first man that went there in the park when the park was first surveyed by Mr. Hall. The first man placed there.

Q.—You remained there until what time?

A.—Until the park was finished—the surveying finished there.

Q.—About how long did you stay there—one year, two years, or what?

A.—About two years.

Q.—Why were you discharged?

A.—Me and this man Hendrickson—he was foreman there—well, I don't know whether he was foreman or no. He acted in the capacity of assistant engineer, I think it was. He came out there and was doing some work on the avenue, as I have been doing previous to this, and wanted to take the man I had doing a particular work, sloping the banks there, away, and put him to shovelling sand, which any other man could do. I objected to that, being he was in my gang, when any other man could fill his position, and every man could not do what he was doing, sloping a bank and dressing off, and this man he abused me —

Q.—Who did?

A.—Hendrickson. He threatened to whip me. He was a very large man. I told him I guessed he wouldn't do that. He was going to do it then. That was about nine o'clock, and he postponed it until noon, when he said he would do it. I told him all right, I would accommodate him by stepping down a hundred feet into a valley there, and leave him do so if he was able. In the meantime he took advantage of that, and went and got a horse at the ranch and came in town and made a report I done everything to him out there,

and I got a note from Mr. Hall stating—let's see if I have not got that note. I believe I have. [Showing a note.]

Mr. Carson—[Reads:]

J. W. Hodnett, Foreman of Park: You are suspended from duty as foreman, pending an investigation of your conduct upon the ground this morning. You will therefore turn your force over to Mr. Hendrickson, and appear at this office at three p. m. to-day.

Park Commissioner's Office, April 1st, 1872.

WILLIAM HAMMOND HALL,
General Superintendent.

Witness—The investigation I never had—never heard anything about. I asked often, and never got no satisfaction about it at all.

Mr. Sullivan—You being on the park at that time, do you remember about tents that were used by Hall at that time, in the park?

A.—Yes, sir.

Q.—In surveying that property, do you know anything about those tents?

A.—Yes, sir. I took the tents down. When we were surveying there we used those tents for camps at that time; for about six or seven months, I think we were there surveying. I took them to my place out on Seventeenth street and kept them there for some three or four months, and may be more, until such time as he went to survey at San Rafael, and I think he had them transferred from my place to San Rafael. I don't know whether they went there, but my presumption is they were taken there at that time for camps there. There was either three or four tents.

Mr. Carson—Who took them away?

A.—Some teamster he sent there with a wagon.

Q.—You don't know, really, where they went to?

A.—No, sir. That was the impression I had, they were going there at the time.

Q.—To whom did they belong?

A.—I presume they belonged to Mr. Hall.

Q.—They were his private property?

A.—Yes, sir.

Mr. Sullivan—Were you surveying with Mr. Hall at the Presidio?

A.—Yes, sir; I was.

Q.—The Government had lots of tents there then?

A.—Yes, sir.

Q.—Those old tents any man could get, I presume?

A.—Well, there is always cases like that. They call them condemned tents.

Q.—Did Mr. Hall get those tents himself from Col. Steely?

A.—I could not say about that. They must be got previous to the time we went to the reservation to survey, for the very reason we were on the park and finished the park survey before we went on the reservation.

Mr. Carson—Were those tents United States tents, do you know?

A.—I think they were.

Q.—Were they marked U. S.?

A.—To the best of my knowledge, I think I have seen that marked on them. I think the tents were delivered, though I can't be certain, from Mr. Hoyt's place down on Market street, at that time.

Q.—Who was Hoyt?

A.—Major Hoyt.

Q.—An army officer?

A.—Yes, sir; Quartermaster. That I am not quite certain of, but I think they came from there.

Q.—You didn't bring them from there?

A.—No, sir; I didn't bring them. They were out there at the time I went out.

FREDERICK MAN SWORN:

Mr. Sullivan—What is your occupation?

Answer.—At present United States Deputy Surveyor. Reside at two hundred and twenty-six Francisco street. Business, landscape gardening. I was employed at the park in eighteen hundred and seventy-two. First as draughtsman. Drew the details for park. At same time I did surveying; gave the grades, and set stakes where they should plant trees. Then, afterwards, we got a big lot of men on there; I was one of the foremen. During the time I was there, I was once approached by the deputy foreman named Enright. He said that we could make five hundred dollars if I would lower the city monuments. He could make five hundred dollars, and we would go half. Then, at that time, during that conversation, when he proposed that, he said that A. J. Moulder (?), the first Secretary of the Park Commission, had been paid. Well, I say positive five hundred dollars; I should not wonder if it was fifteen hundred dollars, if he could get a contract to a man by the name of Kenny. I know this; I am willing to swear to it. During that time, while I was out there, I saw a great deal of mismanagement. It was that Mr. Hall knows nothing about the business whatsoever—landscape gardening or laying out parks. In grading, when he could go around the corner, he went right straight through. He could have done better than that. He went through the sand hills; cut them down. That was by what was called the southern drive, in front of Second avenue. He might have saved fifteen hundred and forty dollars by going round the corner, but he went right over the hill. He had to get clay afterwards to put where he graded away the natural protection from the wind. He had to put clay on top to keep the sand from drifting. There was labour spent on that for nothing. We had to go to a clay bank afterwards, and cover that sand up again. He might have went round it, and preserved the natural beauty; because no landscape gardener can improve nature. There was unnecessary grading done on that avenue there, at the main entrance drive and Stanyan street. He filled up there too much. He filled up five feet too much. He went afterwards to work there, and put redwood sewers. He wanted to drain that, and he drained into nothing because he had no fall whatsoever. He put in close on two hundred feet. It was two-inch plank, and the men had to dig down very near fourteen feet to put a redwood sewer in. That was not necessary. No use for the sewer at the present time. It had no outlet to drain into. I don't know how long it was in use. It had no man-holes in it. He could only drain the seepage of the sand there. The average depth was four to seventeen feet. I think it cost the Park Commissioners very near two hundred dollars, labor and everything. The first two hundred thousand dollars on that park there, if a sensible man would have taken hold of that, he could have done it for seventy-five thousand. That is my opinion, as a landscape gardener and

nurseryman. If they had taken the natural ground, the way it was there, looked round, and laid avenues out, and have walks through the hills, take the old scrub oaks there, cut them down and brush them up a little, and had the old weeds that were there all torn down, they could have made the first hundred and forty acres in the park with fifty thousand dollars, and make a far better show than made to-day with four hundred thousand dollars. The first twenty thousand dollars could have been put to better advantage to the city for seventy-five thousand dollars, and maybe fifty thousand dollars. The original map shows an expenditure of seven thousand eight hundred dollars unnecessary expenses, for making the topography of that. [Topographical Sheet No. 3.] The United States had already surveyed that. There was mismanagement in laying pipes when they first got in water-pipes in that park. He laid the pipes around the avenues, and I told him to make a square. I said you want to water the trees and lay out a square. You want it so you can bring the hose near these lands. The roads were made of red rock, and it will wear a hose through in about a week; and he and his captain, he had there, would not lay the pipes around there, and so much money was gone. I don't know how much. I only kept books of my own account. That is what I did. Then he sank a well there, right down in the clay. I told him: "Mr. Hall, don't go to work and do that, because that is money only thrown away." I told him don't go to work and do that, because it is only money lost. I will tell you why I said it was money lost: There is Lake Merced out there; if the whole county would join in together to bring that water that runs into the ocean around there, and on the upper end of the park make a little reservoir at small expense, to just hold the water that runs into the Pacific Ocean, and put a steam engine there, and pump it up on what is called Strawberry Hill, they would have all the money that went to sink a well, or to buy from the Spring Valley. That would not cost but little. I believe the whole could be done for three thousand dollars. Mr. Hall built a road out there, went out to that race track; that is the first avenue that goes up by the hill there. That was a speculation. That avenue was nothing the matter with it; merely that it was private money went into it, and private interest. The grade was changed three or four times here at the main entrance drive, between Shrader and Stanyan streets, Oak and Fell. Mr. Hall changed the grade three or four times after it was completed; after the contract was given out. It was not macadamized before these changes took place. Yes; there was a small piece macadamized down about there [showing on the map]; right close to Stanyan street. I do not think Mr. Hall, or any of the Commissioners, had anything to do with lowering the monument. I did not lower it, because I thought it was a piece of folly; because if the City and County Surveyor makes out the grade of the street, he knows exactly the amount of feet in it; consequently Hall would know how many yards there were to fill in. Enright, he did not know it; he had only a plain table. He approached me about it, and told me we can make five hundred dollars on that; we could go to work and lower that city monument. He said: "Hall would not know anything about it. You do the surveying, and Hall would not know anything about it, and we take that five hundred dollars. We will lower the monument, and the city will have to pay for it. It would give the man so many yards more." I did not

lower it. I have heard so since; it has been lowered. I can not prove it. I often heard so about that very same man who made that proposition to me. He only had a hundred dollars a month at the park, and a family to support and everything; and when he left that park he was worth four thousand dollars cash. He belongs to the firm of Torrence & Enright, contractors. There is no water in that well they dug; they have to use Spring Valley water. The engine they took out there and the machinery is lying idle. They had no water there; there never was no water in it. It is sunk in the clay. They got a few gallons that was seepage from the ground, from the top of the surface. They got all those trees over from Kelsey's, across the bay. Them trees they got for fifteen cents; that was cheap, I must say that. I heard, though, he sent a lot of trees over—walnut trees, elm trees, and such as that—that were not fit to grow there, and no sensible man would plant such trees there, because they could not grow—walnut and ash trees, such as that; the trees would not grow there. They would not grow in that locality, and it was no use planting them; it was money thrown away. The nursery work is the only thing that is carried on there pretty well—take that little nursery that they had before ever Mr. Hall came there. I told the man that worked for me: "You can stick those trees down; they won't grow." I don't know the number of trees there were; a few pine and cypress have grown; that is all. There might half a dozen of elm, walnut, or ash, sprouted and leaved out; something of that kind. That nursery was started by my old partner; that was started before Hall came. The man that started that was to work for me in the Golden Gate Nursery, and he is the best man; he done more service in the Park than anybody else. That is God's truth. The nursery was the only well managed thing there. I do not know whether it is well managed now. I have not been out there for two or three years. I laid the place out for the first nursery, surveyed it, and then Mr. Hall he went in and changed the grade from six to eight feet. There was no necessity for that, in my opinion. That nursery [referring on the map], was moved over here to the right hand entrance drive. I surveyed that land too. It was moved by order of Hall or the Commissioners. Mr. Sullivan used to come out there about once every fourteen days on horseback, in the morning. Never left any orders or see that any thing was done there. Never asked any employé of the park whether this thing was right or anything else. Everything was left entirely to Mr. Hall's charge. Mr. Butterworth, nor any other Commissioner, ever came out there. Charlie McDermott was out there once. I say Butterworth was never there, because I know Butterworth from the Almaden mines. I positively swear, Mr. Butterworth was never there while I was there, to my knowledge and belief. Charlie McDermott he was out there once. Sullivan came out there every fourteen days. Rode out there in the morning. Rode out there with his family. He never spoke to me about the work. I went away from there myself. I resigned. I only made one hundred dollars a month, and I could not support my family on that. I used to walk out there every morning. My resignation was verbal. I have not the date. Put this down Mr. Reporter: While I was in Mr. Hall's office I drew a map for W. T. Coleman over in San Rafael, of property in San Rafael. I drew a map of a landscape, and I drew a map for his father-in-law Mr. Fitzhugh, Mr. Hall's father-

in-law, while I was employed by the Park Commissioners in their pay. I did it at Mr. Hall's orders. They brought me in a map and they brought me in field notes, and I drew the map. Hall brought in the field notes. It was a survey made by him. I copied that map, that is all. It was not land joining the park, but lands he owned. I guess I spent about four days on those two jobs. I used the materials in the office. I got no pay except my hundred dollars a month from the city. Mr. Coleman did not pay me a cent, nor Mr. Fitzhugh. I never received any money from anybody for the services I rendered on those two maps or either of them. They were done at the express orders of Mr. Hall. He didn't make any explanation to me at the time. That was the early part of eighteen hundred and seventy-two. There is nothing further except in a general way, as I say there was mismanagement from beginning to end. I do not know of anything except this family business. When I first came out there to superintend I was in the office there for a long time. A certain Captain—he is now employed there; I cannot recollect his other name—Rogers, that is it; he is an old acquaintance of him; he came out to the City Hall; he pretended to be an architect; he went out to the City Hall, and he was there about a week, and got discharged, and then he came in here, in this office here; and, instead of getting a hundred dollars, the same as Enright and I got, he got a hundred and fifty, for just working around the park doing nothing—taking names, and taking and giving little tools. Afterwards, Mr. Hall got out a cousin of his, a little, light-complexioned fellow; I don't recollect his name. He employed him to come out there and gather lupine seed. Those are all of his family I know of. The purchase of the material for the park was all done by Hall. I don't know anything about it—how much percentage he got, or anything of that kind. All I do know is, he wasted material. He wasted, for example, pipe. He bought water pipe, laying it in the avenue. He wasted it because it had no business to be laid there. He should make his plan to lay it so it could be used afterwards. If used now, it would have to be taken up. Pipe so laid is wasted, because it gets rusty and takes labor to take it up again. I guess it was sunk about a foot. It was this water pipe—two-inch pipe. The whole is wasted. It must have been near about a mile. That was worth about that time thirty-one cents a foot. I think it is laying there yet. I do not think they ever got water through it. They might have got water through it, because they had a little well down there towards the milk ranch where they pumped water in. I could not answer if they had used it for the purpose of putting water through there. I cannot tell whether they use it now. They never put it to any use while I was there. It was there very near a month before it was used. The pipe was there about two months before I left. I do not know whether it has been used or not; neither do I know whether it is there now or not. The other property I think that he has wasted there, because he receives, I believe, from the Park Commissioners, four hundred dollars a month; he has a horse and buggy, and free office rent, and he uses this office for his own private business, just as well as he does for the Park Commission; he did when I was there. He gets that much money. He never does that park out there, I believe, twenty-five cents a day service: first, because the man don't know how; secondly, he has not the knowledge; and thirdly, he won't attend even

to it. When I was there he used to come out in his buggy, and take his whip, and show, and say, "I wish to have so and so done," and then drive into town again and stay home with his wife. During the time I was there, Mr. Hall spent on the park about an hour a day. I asserted that Mr. Hall wasted property; I assert so now. I have given two or three proofs already. I do not say there is any other waste; only, trees planted there were planted wrong; he planted trees there that wouldn't grow. I am an engineer. I survey and draw details for small parties. I own a transit. At that time I had one of my own; Hall had not at that time. I had one and Hall had two. I had one of my own. I saw Hall's instruments; he had two transits and one level. I have one now that cost about two hundred and seventy-five dollars, but then you could not buy it for three hundred and fifty dollars. But you can buy a good instrument—the instrument he had out there—they would be worth, I guess, ninety dollars apiece. The other one he had was a brass one. I surveyed with that; it is worth about seventy-five dollars. The transit, I guess, you could buy for one hundred and twenty-five dollars, if that is the transit that used to be in the office. That level is worth about forty dollars. There were no tents used when I was there. In eighteen hundred and seventy-two I was there. I don't see why; they had no use for tents whatsoever.

PATRICK BYRNES SWORN:

I am a laborer; live at Lone Mountain; employed in the Golden Gate Park. I live at Shinlan Ranch, between Sixth and Seventh Avenues. I was employed as laborer. I was three years in it, since I commenced. I didn't work there steadily. I remember Mr. Hall took a private contract out there, and we were working on it. I was employed at the park at that time. My salary was two dollars a day. I was employed by Mr. Hall to work on the park. I worked outside of the park for him, on what we call the outside contract. I do not know what amount; it was adjoining the park. Who paid me for that work is a question I could not answer. The work I did on the park I was paid for by the Treasurer. Mr. Hall paid me when I did work on the outside contract. He paid me some money; didn't pay me in full. I can't tell exactly how long I worked on that outside contract—from ten to thirteen days, at the rate of two dollars per day. Mr. Hall did not pay me in full for the work I did on the outside, he only paid me five and a half. I received my full wages. I got a full month's wages. I got it from the treasury. The only money I received from Mr. Hall was five and a half in addition to my regular wages. I can't fix the time when that was done. It was not this year; it was last year. It was in the fall of last year, some time after the first rains. After the first rain, eighteen hundred and seventy-five.

Recess.

AFTERNOON SESSION.

The committee met pursuant to adjournment.

Present: Messrs. Sullivan (Chairman), Carson, Broderick, Raisch.

PATRICK BYRNES recalled.

The Chairman—Mr. Byrnes, there was a fence started out there by the Park Commissioners, outside of the park. Did you work at that fence?

A.—I did, sir.

Q.—It was a quarter of a mile long?

A.—Twenty chains; yes, sir.

Q.—Please state what you know about that fence?

A.—Well, we were working about it for over twenty days; and whether it was legal to put it up or not, I do not know. We got paid for that out of the Park Fund for putting up that fence. We cut the brush that made it in the park. We were cutting it and putting it up, about eight men for over twenty days.

Q.—And you got paid by the Park Commissioners?

A.—Got paid by the Park Fund.

Mr. Raisch—There was some working men besides yourself employed on the fence?

A.—Yes, sir; about eight men.

Q.—And some teams?

A.—Oh; yes, sir.

Q.—Belonging to the Park Commissioners?

A.—Yes, sir; and hired teams.

Q.—They got paid by the Park Commissioners, too?

A.—I could not say, sir; but to the best of my belief, they did. I could not swear to only what I got myself.

Q.—You stated this morning about your working on the outside contract there; were there teams working there belonging to the park?

A.—There were hired teams.

Q.—There were some men there?

A.—There is sometimes, I believe, about eight or nine sowing the seed, and they that was after the cultivators; there was sometimes six cultivators working there.

Mr. Carson—You mean machines you call cultivators?

A.—A sort of plow, with four or five scrapers together.

Mr. Raisch—Can you give us the names of some of the parties that worked there?

A.—Pat. Cullen's team was working there, and Mr. Michael Cook.

Q.—Any others?

A.—I guess there was some horses—I could not say—but I guess there was some teams belonging to Mr. McCarthy.

Q.—What Mr. McCarthy?

A.—The one who keeps a stable here. He had many horses out there at the time to work. I believe there was four teams belonging to him.

Q.—Do you know where those parties live?

A.—Pat. Cullen lives quite close to Lake Honda School-house; and Cook lives on Point Lobos Road, between the Odd Fellows' Cemetery and the toll-gate—the second next house to the toll-gate.

Mr. Carson—Where is this fence that you worked upon?

A.—It is at the south side. It is from the outside boundary of the park, running south.

Q.—From the southern line of the park?

A.—From the western line of the park. It runs between the beach and the park fence, and followed up the park fence right up above this outside contract, running along the beach.

Q.—Is this fence within the limits of the park?

A.—No, sir.

Q.—Is it on private property?

A.—Yes, sir.

Q.—The beach fence you are talking about is the embryo road?

A.—Supposing this is the park fence, that runs along this way, north and south; when you come to the end of the park fence it continues it on right, going south.

Mr. Broderick—It is a brush fence, on private property?

A.—Yes, sir.

Q.—How long were you engaged on that, sir?

A.—I could not exactly say—over twenty days, cutting brush and putting it up.

Q.—How many men were with you?

A.—About eight or nine men.

Q.—You were paid entirely out of the Park Fund?

A.—Yes, sir; got nothing out of that, only I got five and a half for the length of time—

Q.—That is another case?

A.—Yes, sir.

PATRICK WARD SWORN:

Mr. Carson—What is your occupation?

A.—Laborer.

Q.—Where do you live?

A.—At the Golden Gate Park.

The Chairman—Do you know anything about this outside contract?

A.—I worked on the outside contract, sir.

Q.—Just give us a history of that—an idea of what you know about the matter.

A.—I worked there nine days myself, and I worked about five days, mixing lupine and barley, down at the office at the park stables, and I got paid only ten dollars for the limited—

Q. [interrupting]—What did you do?

A.—I worked nine days, and was paid ten dollars.

Q.—Was that the whole amount you were paid?

A.—That was the whole amount I was paid for nine days. I cannot say about the barley; if the barley belonged to them, I should have been paid more.

Q.—Did you get any money out of the treasury?

A.—Certainly, I got my wages; I got the whole of it—the remainder of the money; I got the scrip out of the treasury.

Mr. Carson—During these nine days, did you do any work on the park, or any other place, other than the outside contract?

A.—No.

Q.—Your whole time during the nine days was employed on the outside contract?

A.—Yes, sir. No, I didn't, to the best of my belief, work any other place.

Q.—How much money did you get from the treasury for those nine days? What was your daily wages?

A.—Two dollars a day.

Q.—For the nine days, then, Mr. Hall paid you?

A.—Ten dollars.

Q.—Then you were working regularly in the park, were you?

A.—I was working on the outside contract at the time.

Q.—Were you employed regularly in the park?

A.—No, sir.

Q.—How much was the voucher for that you got?

A.—I cannot say; I kept no memorandum of it. The month's pay came out together.

Q.—How long did you work there altogether?

A.—Three months on the park; going on three months.

Q.—Was it during those three months that you spent these nine days on this outside contract?

A.—Yes, sir.

Q.—Was it in the middle of your three months that you worked your outside contract?

A.—It was about the beginning of my time.

Q.—Who employed you?

A.—An under-boss, under Hall, by the name of Enright.

Q.—At what rate?

A.—Two dollars a day.

Q.—Were you paid by the month?

A.—Yes, sir.

Q.—Were these ten dollars that were paid to you in cash, by Mr. Hall, deducted from your voucher for that month's pay?

A.—No; that could not be. Mr. Hall paid me ten dollars, but that didn't pay me for the nine days.

Q.—When your month was up, Mr. Hall was in the habit of giving you a voucher for so much money?

A.—Yes, sir; he gave me a voucher for so much money.

Q.—Well, for the twenty-five or twenty-six working days for that month, how much was it for—fifty dollars?

A.—There was broken weather in it; maybe we did not work the full month.

Q.—What I want to get at is this: Was the ten dollars that Hall paid you in cash taken out of the whole amount you would have got, if you had got a voucher for the full amount? Do you understand me?

A.—Yes, sir.

Q.—Was it?

A.—The ten dollars he paid me?

Mr. Raisch—For instance, you worked twenty days of the month; you would have got forty dollars. Did you get forty dollars from the treasury?

A.—No, sir.

Q.—How much did you get?

A.—I cannot tell.

Mr. Carson—Was that ten dollars taken out?

[After discussion.] A.—He paid me ten dollars; there was eighteen dollars due me, and I got my voucher for the remainder of my money out of the city treasury.

Q.—Was it only for the remainder you got the voucher?

A.—Yes, sir; to the best of my belief I got paid for the remainder from the city treasury.

Q.—The balance of the pay?

A.—I got that from the city treasury. To the best of my belief I got that from the treasury. I worked also five days for the outside contract, mixing lupine seed.

Q.—Did Hall ever pay you out of his own pocket?

A.—No, sir; he gave me a voucher, to the best of my belief.

Mr. Raisch—Did you work on the fence that was built outside?

A.—Yes, sir; but I cannot say what limit of time I worked at that.

Mr. Carson—How were you paid for it?

A.—Two dollars a day out of the city treasury. On the fence any way; whatever I worked, part of it belonged to the city.

Mr. Broderick—Did you work on that part that run outside of the lines of the park?

A.—Yes. I worked some days on it, but I could not tell how many. I kept no memorandum of it.

J. W. HODNETT recalled.

The Chairman—Do you remember of some men being discharged out there for incompetency?

A.—Yes, sir.

Q.—Just state what you know about it?

A.—Well, they were in the department which I superintended there, and Mr. Hall came to me and said if there was any men that were not attending to their work or loafing around there he would like to have their names, because he was going to discharge them. I gave him the names of some four or five men that it was impossible to keep to their work, and he discharged them. About three or four days afterwards they were sent to work again.

Mr. Carson—At the same rates of wages?

A.—That I cannot say. There was one of them sent to work, and talking round and disturbing the men, and saying that he had got his wages raised to three dollars a day.

Q.—What was the rate before?

A.—About two dollars. He got paid by the hour.

Q.—What was his name?

A.—Cox.

Q.—What was his first name?

A.—I do not know.

On motion of Mr. Carson, the committee adjourned until to-morrow morning, at ten o'clock, in the office of the Park Commissioners.

SAN FRANCISCO, January 14th, 1876.

Committee met pursuant to adjournment. All the committee present.

JOHN J. MURPHY sworn:

I am employed on the park from the first day the park started, in eighteen hundred and seventy-one. I am there now as gardener. I know of stakes having been taken. I know there is one man was for three weeks. There is twenty-four days—men cutting down stakes, averaging at least two hundred a day—cutting them down, not pulling them up. Between two and three thousand stakes were cut down that way. I can't say for sure, but there must be that amount. That was done under the orders of the head gardener, Mr. Popper. The

value of the stakes Mr. Hall can tell. Some of the trees were destroyed. My men cut them down by order of the same party; trees that had been three or four years there. They were cut down with an axe, and sent out on the wagon to the beach. Those trees were all good healthy trees. They were taken out to the beach to make a brush fence. These were trees that had been planted there. I know of trees dying for want of irrigation. The head gardener, Mr. Popper, came on the park, and he objected to any irrigation. He said if they could not do without irrigation they should die, and they did die; and when the water-main came in he found out his mistake, and they had to pull them up. There were between twelve hundred and fourteen hundred trees treated in this way. There were acacias, cypresses, pine, gum, and so forth. The places from which the trees were cut down were afterwards occupied by trees of the same kind. I believe there was three young ones put in, to one of the others. You could put three to one because they were planted a certain distance apart. I estimated the trees cut down to be worth from five dollars to ten dollars at the lowest, at the place where they stood. By moving them to a suitable place, where they would show themselves better, they were valued from ten dollars to fifteen dollars, a low valuation. I know of cypress trees raised in the nursery. I planted them. There were sixteen thousand. They are standing yet. They have not perished, but they are not good for anything. They would not do to make stakes with, because they have got too old. They are six inches apart; and trees let stand for three years in one place without being moved grow up to nothing, only just like the ramrod of a gun, with no branches. That is my opinion, and I am a professional man. I have been a gardener since I was ten years old. I am thirty-one now. I know rustic lumber has been taken from the park by the head gardener and given away to a certain man—to E. Meyers, the nurseryman. The next witness will be able to inform you of that. I can't say where it came from. It was not raised on the park. It is manzanita. I estimate the value of the sixteen thousand cypress trees to be four bits apiece—eight thousand dollars. Last week Friday, a wet day, forty thousand or fifty thousand young gum trees were brought there to the park, and they are there now, being planted out in the sand. They are only six to seven months old from the seed. Being so planted in the sand there, they will necessarily die, without irrigation, and they can't irrigate them there. My opinion is that the only motive that impels the people doing this is to put them there to die, in order that they may be able to purchase more. These purchases are made at the Kelseys' nursery, Oakland, or elsewhere. Reside on the park, or, after half past twelve o'clock, on Post street, between Devisadero and Broderick streets.

PATRICK QUIGLEY SWORN:

Am foreman and teamster at the park; employed there since the start. Live on the park. I don't know as I could inform you anything about the stables, or management out there, more than the number of horses and harness. The horse Jim, that belonged to Mr. Hall, has been there, and he is working there to-day; has been for over eight or ten months. I know of a team that came there to be worked on the park, and after we had broke them in, I sent one

of the team in with him (Hall), and he ran away, coming down the hill on Broderick street. That team is there working; they were only just temporarily laid up for a month. I don't know whether Hall stabled any private horse or not. There were two horses there about eight or ten months ago. That was the time we were pretty busy making the beach road, and he was out there two or three times a day. There was two horses, a man, and wagon, kept there for a kind of messenger wagon. That was the only time he had two horses there to my knowledge, and I could not say but what they belonged to the park. Hall used them in a double team. They were not used as work horses on the park. I don't think there was any teams of the park, or hired to work on the park, were used by Mr. Hall on the outside contract.

THOMAS MAHONEY SWORN:

I don't know anything. Been driving a team three years. Part of the time getting two dollars a day, and fifty-five dollars a month now. I am employed by the month now. The horses kept in the park were worked, excepting two, that I know anything about. Those horses were able to work. They were used by Hall once in a while. Captain Pritchard owned one of them; at least I suppose he did; I don't know exactly. I could not say how long the horses were kept there. They are not there now. One is there.

DANIEL SULLIVAN SWORN:

I worked for the gardener. I was waterman last two summers. Live up near Hayes street. Am still employed on the park. I know about stakes having been cut from trees. That was done last summer or fall. I could not tell how many hundreds of them. They were taken away with carts. They were cut down with an axe. I could not tell if the trees were destroyed. I suppose the gardener ordered them done; I could not say. I didn't do any of it. I didn't cut any stakes down. I cut lots of trees down. I could not tell how many. They were live trees; the best trees in the park. They were gums, and pines, and cypress. When they were cut down they were taken out to the beach. I could not tell for what purpose they were used. Other trees were planted in place of those cut down, some places, and more places they was not. I could not tell the number of trees cut down. Some man cut them down beside myself. I judge I cut down may be sixty or eighty trees. The boss gardener ordered me to do it. I saw forty or fifty thousand young gum trees come there last week. They planted them out in the sand. I could not tell whether they lived out there or not. I am no gardener at all; I simply work under the gardener. A lot of young cypress trees were raised in the nursery; I seen them planted. The rabbits eat a great deal of them down, and they died a good many of them. I could not tell the cause. I could not tell how many died out of the fifteen or sixteen thousand. I don't know how many are there now.

WILLIAM WARE SWORN:

I saw an order on the book of Mr. Conner, seed merchant, on Sansome street, near Clay. I was told it was an order from the Park Commissioners for ten thousand gum trees, at forty dollars a thousand. I said, you must have struck a countryman; I can buy them

for fifteen dollars. I bought some for seventeen dollars and a half, and the same man I bought from advertised to sell them for fifteen to seventeen dollars a thousand.

LOUIS ENRIGHT sworn:

At present I am a contractor. I live at fifteen hundred and twenty Clay. I have been employed on the park as assistant engineer, from, I believe, October, eighteen hundred and seventy, up to the first of May, eighteen hundred and seventy-five. My profession is civil engineer. I know Mr. Hall. He employed me—the Commissioners rather. It is a matter of judgment whether he is competent. I suppose he is capable. There has been a good deal of sewerage built at the park, along the roads and to drain the surface water generally; drain some stagnant pools. I know a place near the lake. I don't know any sewerage built to drain that lake. There has been sewerage built to drain certain other parts of the park into that lake. There might have been some old sewers there that have no outlet or inlet. I think I know of some. The exact locality I could not tell you, except we got the old field books of the Park Commissioners. There is a good sewer there. [Referring on map to the place Man testified to.] The sewer that has neither outlet or inlet was an old sewer built by the engineer during Mr. Hall's administration. [From the main entrance drive into the lawn.] That has an inlet, but has no outlet. I don't know it has an inlet now. It may not have even an inlet now. I know of trees being chopped down. I could not tell how many. Some pines and cypress from three to four years old; been in the park almost that long. There has partly nothing been put in their place, and partly some other trees, or groupings of trees made in their places. I could only give an approximation of the number cut down. Might have been a few hundred. I know of a private contract taken by Mr. Hall to reclaim the sand-drift south of Golden Gate Park, from Eighth Avenue to Forty-ninth. I am not posted on what he got. I don't know of his using the labor or material of the park upon that private contract. I know of a well built there, and tank of the capacity of twenty-seven thousand gallons; a steam engine and two plunger pumps built. It has been put to use for about four or five months. They served the purpose of the park so far as we got water. I don't suppose we got water in sufficient quantity; if we had we would not need the Spring Valley water. That well is not used now. Not used after the first five months. There is water in that well. That well don't supply water enough for the park. I never gave the Chairman or any member of the committee any information concerning the management of the park. None of the Commissioners have ever spoken to me in reference to testifying before this committee. I never stated to the members of the committee that some one of the Commissioners or the Superintendent, Mr. Hall, had requested me not to testify before this committee.

Q.—Have any of the Commissioners or Mr. Hall ever spoken to you at all on the subject?

A.—I object to that question. [After being admonished he must answer.] Yes, sir; Mr. Eugene L. Sullivan and Mr. William Hammond Hall. Mr. Sullivan said to go and testify and speak the truth. That was the whole conversation. I told him I was subpoenaed to testify before this committee, and I would have to appear and testify.

And he said go and testify and tell the truth, what you know. I was subpoenaed last night. That conversation occurred this morning.

Q.—Did you have at any other time a conversation with Mr. Sullivan on that subject?

A.—No, sir. I mean Mr. Hall.

Q.—I am speaking of Mr. Sullivan. I have not yet come to Mr. Hall.

A.—Excuse me; I thought you meant my conversation with Mr. Hall. I want to rectify that. I spoke to Mr. Hall, not to Mr. Sullivan.

Q.—What was your conversation with Mr. Sullivan?

A.—I told him, I believe, a month ago, that I heard something in the papers of some charges being brought against the park, and they would probably have me up to testify. He said: "All I want you is to testify and speak the truth." That is the entire conversation.

Mr. Raisch—Do you remember, about four weeks ago, meeting me and Mr. Sullivan on Merchant street, here? Do you remember what you told us there?

A.—Yes, sir.

Q.—Well, state what you told us there—myself, Sullivan, and three or four more.

Q.—You asked me to give you some information about the charges, and I told you to put me under oath, and I would tell you everything that I know.

Q.—Nothing further?

A.—No, sir; except that I didn't want to testify.

Q.—Did you say anything about the Commissioners?

A.—Not that I recollect.

Q.—You are under oath.

A.—I am.

Q.—Did you say to me, Mr. Sullivan, Captain ———, and three or four other gentlemen, right in Merchant street here—did you say Mr. Sullivan and some other Commissioners, and Mr. Hall, had been after you not to testify in the case?

A.—No, sir. I don't recollect.

Mr. Carson—You were requested by Commissioner Sullivan to tell all you knew about park matters?

A.—He only told me that if they got me up, for me to testify according to the truth. I have been employed chiefly in the Golden Gate Park, in laying out the walks, laying out everything, surveying the place, superintending the works, and tendering my reports to the Superintendent and Commissioners.

Q.—Have you superintended much grading there?

A.—Yes, sir.

Q.—Who attended to the grading there chiefly?

A.—Mr. Hall and myself.

Q.—Have you, as a civil engineer, always been satisfied that the cuttings, gradings, excavations, and embankments, that you have made, were the most economical that could be made there?

A.—If I had not been satisfied to that effect, I would not order it; because, in my opinion, it was so, or else I had all the control of the work, and would not have ordered these things to be done that way. There must be reports monthly, giving the number of cubic yards excavated and graded, and all work done, specified in such monthly reports, with the estimated and calculated cost of each cubic yard, or

each square foot of macadamizing or paving; anything we done there must be in the office; and you can see out of these reports exactly what every piece of work done out there has cost. Such things must be on file, from the very commencement, up to relinquishing my charge out there.

Q.—Have you got any contract out there now?

A.—No, sir. I have got contract on streets out there. I never done any contract work for the park.

Q.—Is Mr. Sullivan interested in any contracts you are interested in, either directly or indirectly?

A.—That is private matters. I don't know as I can answer it.

Q.—I shall ask for a categorical answer.

A.—I decline to answer.

Q.—Is any other Commissioner, or is Mr. Hall, or is Mr. Fleming interested, directly or indirectly, in any contract that you may have now, or have had during the time you have been employed there?

A.—I had no contract while I was employed at the park.

Mr. Sullivan—Well, now.

A.—These are private matters, and I don't see that I am called upon to answer any such questions. I am not supposed to answer any questions that concern my own private business, for nobody, and will not do it. I decline to answer such questions.

Mr. Carson—What contracts have you on hand now?

A.—I have no park contracts on hand; no contracts from the Park Commissioners.

Q.—What contracts have you on hand now?

A.—I don't know as I have to answer these questions.

Q.—I ask you the question, sir, and you will have to answer it.

A.—The contracts are on file in the Street Superintendent's office.

Q.—I am not asking you that question. I repeat it. What contracts have you on hand now?

A.—I can't think of all of them.

Q.—Well, specify some of them.

A.—Grading Washington street, between Octavia and Laguna—macadamizing the same; grading Taylor street, between Green and Vallejo; grading two fifty-vara lots, adjoining; grading Jones street, between Union and Filbert; grading fifty-vara lot at Jones street; constructing a stone wall, and grading two fifty-vara lots on the corner of Union and Taylor; grading Staniel street, between Fulton and Fell—macadamizing the same; grading Staniel street, between Oak and Fell—macadamizing the same. That is all I can think of. Those are city contracts.

Q.—Have you any contracts with private individuals?

A.—There are some private contracts there, and some city contracts.

Q.—Have you any contract with Commissioner Sullivan, in his individual capacity?

A.—I decline to answer that question. Yes, sir. I have got a contract for grading Seventh street—Staniel street, from Fulton to Broderick.

Q.—Is that the only contract you have with Mr. Sullivan?

A.—And Waller street, between Staniel and Clayton. Those are the only contracts I have with Mr. Sullivan. I don't know but I have to specify a little error I made here in stating I got these contracts with Mr. Sullivan. I would state I got these contracts with

Thomas L. Rutherford. I believe they are in Mr. Thomas L. Rutherford's name. Probably Mr. Rutherford is Mr. Sullivan's son-in-law. I don't want to have that misunderstood.

Q.—Have you any other agreement, contract, or business relation of any kind whatever, with Eugene L. Sullivan?

A.—No, sir.

Mr. Ransch—Do you remember one time you told me and Mr. Sullivan, if called on the committee, you would testify to the same thing you stated there?

A.—I told you if I am under oath I will speak the truth.

Q.—Didn't you say you would sustain what you told before?

A.—I can't recollect.

Q.—Do you know anything about a monument out there in the Park, that the engineer set down for giving the grade?

A.—I don't understand what you mean.

Q.—You know what a monument is?

A.—I do. What do you mean by lowering it?

Q.—Did you ever talk to a man about lowering the monument? Did you offer him five hundred dollars to lower a monument?

A.—I have not got five hundred dollars to throw away.

Mr. Carson—That is not the point. Do you know Mr. Man.

A.—Yes, sir; I do.

Q.—Did you at any time have a conversation with him concerning a certain stone monument?

A.—Not that I can recollect.

Q.—Called a city monument?

A.—No, sir.

Q.—Did you ever propose to him you and he could make five hundred dollars by lowering that monument?

A.—No, sir; I don't see how I could make it.

Q.—Didn't you explain to Mr. Man that a certain amount of filling being done at the ——— the contract calling for the filling to be done up to a certain line—that by lowering this monument, and so saving the contract, on the filling in of a certain amount, that the sum of five hundred dollars could be made by you and him?

A.—No, sir; I didn't say that, and if Mr. Man says it, you put it down he is a liar.

Q.—I ask you did you ever say that?

A.—No, sir. No such an occurrence as that ever took place in any manner whatever. I can't see how it could benefit anybody, because the thing is done by the day's work.

Q.—Wasn't the first grading done by contract?

A.—That was laid out before I ever was in the park.

Q.—When did you leave the employment of the Park Commissioners?

A.—On the first of May, eighteen hundred and seventy-five.

Q.—Do you know of any private contracts Mr. Hall had for the reclaiming of lands?

A.—Yes, sir. I was doing the work for Mr. Hall. That was in the year eighteen hundred and seventy-four. In the winter of eighteen hundred and seventy-four to eighteen hundred and seventy-five. While I was in the employ of the Park Commission, I superintended the whole work—done the whole work.

Q.—Were any of the men, teams, or materials, in the employ of or

belonging to the park, used in any way whatever on this private contract or contracts of Mr. Hall?

A.—No, sir.

Mr. Broderick—Didn't you consider you were employed by the Commissioners?

A.—Yes, sir.

Q.—Wasn't you employed on it?

A.—Yes, sir.

Mr. Carson—How were you paid?

A.—Paid by the month; one hundred and fifty dollars a month from the city treasury, and a horse and buggy kept.

Q.—Were you paid anything additional for your extra service on the private contract?

A.—Yes, sir; I was paid by Mr. Hall two hundred dollars for the whole job. I was employed ten days on it. But I want you to put that in, and understand, that before that work commenced I asked leave of absence from the Park Commissioners for fourteen days; such leave of absence being granted me, and my wages deducted therefor, and during that time I managed that work. I can be found any time—fifteen hundred and twenty, Clay street.

THOMAS MCGLORAN SWORN:

I am a laborer. Live corner of Eddy and Scott; southwest corner. I was employed by the Park Commissioners. Been employed there three years, off and on. Am there now. My wages are two dollars a day. I know work having been done by Mr. Hall, outside of park limits. I worked on that. I was paid by him. He came to me when he wanted me for his own service, and said: "Mac, I want you to work for me so long." He didn't say so long, but said, I want you to work for me. I worked for him so many days at that work, and when I got through, he has paid me out of his own money in full. He said to me, when I was going to work: "After you get through with me you can go back to the park." This was a contract he had for the last two years. He also paid me in cash for that work. He paid at the rate of two dollars a day in coin, and I come down here and got the balance. I would get what was coming to me when I worked for the park. I have seen trees chopped down, but I don't think there was no necessity for cutting them down. I could not tell how many was cut down. A good many was put out in the desert, covering over the sand. They were pine, gum, and cypress. They were fine, healthy-looking trees. Must have been all of three or four years since they were planted. I know of stakes having been cut down. I could not tell how many. Must have been more than a thousand. All of three thousand and more; because every tree had a stake. They could not have been pulled up very well. A great many of them were down eighteen inches, I think.

J. G. BRADY SWORN:

I am a contractor. Live at six hundred and eight Third street. I have had business with the Park Commissioners. I remember a contract made with Kenny. I was afterwards assigned that contract. I received what you call extra pay. The assignment was made to me on the fourth of October, eighteen hundred and seventy-two. What they call extra pay in the park, extra work or something. I received that. That was between Mr. Kenny and them. I don't know about

it exactly. I paid the sum of five hundred dollars for a contract, at the request of B. Kenny. I paid it to T. P. Reardon, on the fourth of October, eighteen hundred and seventy-two, the day I got the money, right in the office, when I drew this extra pay from the park. I am unable to tell the purpose I paid it for. Mr. Kenny made some explanation and told me the theory and so so. He had some trouble getting this amount of money. He had two extra bills that was not in the contract at all; extra work amounted to one thousand seven hundred and forty-seven dollars and forty-eight cents, and he could not get it, as I understood from his (Kenny's) story to me, and he gave me the assignment of it. I don't know how it was. I paid the five hundred dollars, and it was, as I understood it, on my getting the money.

Q.—In other words, were you given to understand that in order to obtain one thousand seven hundred and forty-seven dollars and forty-eight cents for extra work, you or he were compelled to pay the sum of five hundred dollars?

A.—That is the way I understood it from B. Kenny. He told me that Reardon should receive that money from me and in his presence, Kenny, Reardon, and all, when I drew it, in the Auditor's office. Reardon attended with me at the Treasurer's office when I drew the money, and I paid over to him the five hundred dollars. Mr. Reardon at that time made no explanation to me; I don't know as he said anything; he simply took the money; I don't know what he did with it. I bought some wood from John Doyle; I got a good deal of wood, and I paid him sixty dollars, I think, and fifty dollars; I don't know—a couple of payments. I could not tell where the wood came from, only by hearsay; it was delivered to me at my own house; it was more than a year ago. I could tell you the date of payment by my books, but I couldn't exactly tell now. I have never been a bidder on any contract by the Park Commissioners. I have made out bids for B. Kenny. They were presented; three of them for one contract—one in John W. Kelly's name, the other James Hamilton, and one in Kenny's own, that was blank. Kenny's bid was blank. The contract was awarded to Kenny. The work bid upon was in the park; that was twelve and a half cents a yard; it was cutting in sand. I don't know if it was blank when presented; I made it in blank; what was done when it left me I can't tell. It was put in an envelope; I don't think it was sealed. The other bids left my hands the same time as this; all made out together, and delivered to B. Kenny.

FRANK RASEDALE SWORN:

I am a gardener; live corner of Broderick and McAllister. Have been employed on the park as gardener. I have been a gardener for the last sixteen years. I have cut off a great number of stakes, by order from the head gardener; the number I can't tell, but three or four thousand. They were drawn to the yard and pointed to be used again. Other stakes are substituted in their places now, not immediately. Trees were destroyed by reason of stakes having been cut away from them; there is a good number, but I can't tell how many; about a hundred, I will say, I have taken away. There are other men employed in the same business. I have taken away a hundred myself that were broken down and destroyed by reason of

stakes being cut away from them. I know of trees having been cut down; they were brought out to the beach; they were cut off by the axe; they were pines, cypresses, acacias, eucalyptus, and different kinds; they were from three to four years old. The average value of them I can't tell. I am acquainted with the value of trees, but not much in California. The reason I had for cutting the trees down was because there was too many, and I thought they were not in the right place. Other trees were planted in the same localities, about the same kind we had cut. I know of trees being allowed to decay and lost through neglect to irrigate. There is a nursery of cypresses yet, but I believe the greatest portion of them are destroyed now. They were planted before I came, and I have heard to be something like sixteen thousand. They are all alive yet. They are not much use. They are planted too close, and left a year or two too long, so that they are now almost valueless. They can be used for stakes; and they are intended to make stakes out of them; I don't know who is to blame for that. I am still in the employ of the park; wages, sixty dollars a month. I never done work for Mr. Hall, or any body else, outside of the park, while there.

PATRICK OWENS sworn:

I was the first two years Park-keeper, and same time plant trees and raise seeds; nurseryman. I was appointed first, seventeenth of November, eighteen hundred and seventy-one; went out there and have been there ever since. Park-keeper was taken away from me and I have been raising trees since, and am nurseryman. My wages were seventy-five dollars, until last July it was cut down to sixty dollars. I get sixty dollars now. I live at the park. I raised all the trees raised there. I could not say how many cypress trees I raised there. I don't think there was quite fifteen thousand altogether. I suppose there are seven or eight thousand now, down in the old nursery—five thousand any how—and they have been neglected. They might be all planted out, but now they have got so close together it is difficult taking them out, with the exception of taking out every other one; one might be cut down and the other taken up.

Q.—Do you know anything about a large lot of cypress trees having been allowed to become almost useless?

A.—Yes, the ones I am talking about; they are in that patch down near the office. They have been allowed to grow too long. It must be the chief gardener's fault, or Superintendent's; I don't know whose fault it is. They could have been used last year, and they could this year, about half of them. There has been a few cypress trees purchased and set out, of different kinds, none of the same character as these I spoke of. That is Monterey cypress. These few purchased were what we call silver, or white cypress. The Monterey cypress flourishes in the park. I should think there were places on the park where these cypresses could be used, but my business was inside the nursery, not outside; so what has been down outside I could not swear to. I have been a gardener fourteen years. Learned the business in the States, and ever since I came here. The head gardener is Mr. Poppie, or Poppa. I don't think he knows anything about raising trees. Landscape gardening I don't profess to know anything about, therefore I can't say. He has charge of all the trees. I

don't think he has been successful in tree-raising. I have not sowed any seed since last May. He has a boy there, and he has learned him the business; my business is merely watering the trees in the nursery and tilling the ground since. I don't know anything about lupine seed; I know they have had lupine seed there.

WILLIAM COLLIE sworn:

I am a gardener and nurseryman; do business at eighteen Post street; have been engaged in that business over thirty years. Don't remember signing a petition; may have done so. Have been to the park frequently; I have examined it professionally. I think the nursery has been conducted well. The tree-planting I don't admire; I think it is done with no judgment—neither in selection or arrangement of the plants—not suitable localities. I have no other reason for that opinion. I have seen the cypress trees in the nursery, and also planted some myself, in Jefferson Square, presented by the Commissioners to the City of San Francisco; they are Monterey cypress; they flourish in that locality.

Q.—What is your opinion of the conduct of the manager of that park, if he had cut down many hundreds of trees—cypress, blue gum, and pine—that had been planted there, and remained for three and four years; been raised that length of time—if he had cut those trees down, and hauled the trees so cut out on the sand beach and left them there?

A.—Simply wanton destruction, I should say. I can't give any other opinion than that.

Q.—When stakes supporting trees are eighteen inches in the ground, do you consider it good management to cut those stakes off with an ax?

A.—I consider it equal to destroying a tree in this climate. That is my experience in San Francisco.

Q.—Is there any necessity in cutting those stakes at all?

A.—No; I should say not.

Q.—Is it difficult to pull up a stake that is only eighteen inches in the ground.

A.—No, sir. I should call it wanton folly; I don't know what else to call it. To leave eighteen inches of a stake in the ground I don't think would either benefit or injure, as near as I can understand. I know there were circulars around the city; I don't recollect signing them; I may have, without remembering.

HENRY STEWART sworn:

I am a gardener and nurseryman. Reside on Geary, between Broderick and Devisadero. I have no recollection of signing any paper. Have been a gardener and nurseryman in the neighborhood of ten to twelve years. I don't know anything about the management of Golden Gate Park.

Q.—Suppose that the manager of a park had cut down several hundred trees—pines, cypress and blue gum—that had been planted there, and raised for three or four years, and that he had taken the trees so cut down and carried them out to the sand beach and thrown them there, what is your opinion of such an action?

A.—Well, I should think, unless the trees are too thick, it was certainly wanton destruction.

Q.—Suppose, for instance, in the same locality in which these trees

were cut, that other trees of similar character had been planted shortly afterwards?

A.—I should see no reason for it whatever.

Q.—Suppose that the manager of that park has between two and three thousand stakes, supporting trees, chopped off, leaving the trees to stand alone, what is your opinion of that?

A.—Well, I should think that was about the most foolish thing a man ever could do in a climate like this. I don't think there can be anything much worse than that. I should consider it equivalent to the destruction of the trees. Stakes are all the way from three or four feet up to fifteen or sixteen feet.

Q.—Suppose these stakes are cut off and then pointed again, is there any particular advantage in that—any economy?

A.—None, whatever.

Q.—What would you consider it?

A.—I consider it destruction of the first degree.

Q.—When a stake has been inserted in the ground eighteen inches, is it better to pull it up or chop it off?

A.—Take and pull it up, by all means, if you want to use the stake again.

FRANCIS E. FAUTSCH SWORN.

My business is landscape gardener; practiced it since infancy. It is my business at present. Practiced that business in California from after the excitement in the gold mines; probably after eighteen hundred and fifty-five. I reside corner of Polk and Bush. I examined Golden Gate Park about four years ago; went purposely to criticise it. Have not examined it since. It made me sick to look at it. I examined it thoroughly; made a critical examination. I looked at it with the eye of a landscape gardener. They have done exactly the reverse of what they should have done, in regard to everything. They, in the first place, cut through the hills—the very thing they ought to spare, in order to show the main beauty of the locality. Then they filled it; run into it at great expense; run a road into it. A real landscape artist would select the rising ground to lay the roads out. It was easy for him to lay it out. If he has not got artistic feelings about it, of course, he cannot avoid it. He is like an engine-driver—he will run it right through. It was done through perfect ignorance. If a level road was desired, instead of breaking into the hills, a landscape gardener, in the first place, after viewing the ground and prospects, and seeing where it would go to best advantage, would then run his road inside, so as to show its beauty. If there is any defects, he will conceal those defects, and find the beauty there is in it. He spoiled them by running the road into it, and showed the defects. He done exactly the reverse of everything. One rule in laying out a park is to keep always away from the edges. Run the road away from the edges of the park, so as not to show the outside, because the outside cannot be expected to be laid out in such style as inside. At the time I made this examination, I believe, so far as I recollect, one hundred and fifty-five thousand dollars had been spent there, and I am satisfied with twenty-five thousand dollars I could have done to perfection the same work, because I would not have it spoilt. In fact, to bring it to its perfection again would cost more than it cost before, and be very difficult, even with the money. I don't consider the trees have been planted to produce the highest

and best results. In the first place, you must know the nature of, and the locality, and the climate, and which is the best to plant. If you plant deciduous trees on a sand-drift, of course they will die. There are, I don't know how many thousand trees, and from the first I know these trees could not live. There are certain trees that will live there. Another thing, they planted them without any knowledge of planting. A landscape artist should study the locality where he is going to plant, and know the nature of the thing he is going to produce there. The proper results have not been produced. He does not know harmony in the first place, because he plants a pine, a rigid tree, there, and a drooping tree—just like having a horse and a cow in a buggy—for there is harmony in every art, and especially in landscape.

Adjourned until to-morrow, at eleven o'clock, in Board of Supervisors' rooms.

SAN FRANCISCO, January 15th, 1876.

Present—Hons. D. C. Sullivan, Carson, Broderick, Barber, and Raisch.

Mr. Carson—In justice to this committee, and in consideration of certain reflections that have been cast on the recent action of the committee by some portion of the press of this city—while I have regarded and desire to be advised largely by the press, still, in consideration of these facts, I desire to say this much, and I think I speak for the entire committee, with the exception perhaps of the Chairman, that we were appointed on this committee, and came here to San Francisco, almost completely ignorant of the details of the park, without any knowledge whatever of the mode or manner in which the work has been done there; absolutely without any whatever of the manner in which the finances had been managed, or in which the public property confided to the care of the Commissioners and the officers by them appointed had been disposed of. Now, at one of our earliest meetings I was certainly afraid to begin an investigation while I myself was in such a position. The majority of the committee agreed to that proposition also; and I wish to say in this connection that it would have been very unwise indeed had this committee, representing the people, come here and attempted an investigation of a subject the details of which they were in utter ignorance of. For instance, the Commissioners, their officers, those parties employed on the park, have for years been familiar with all the details of the park, and of its management and expenditure, and use of public money and property thereof. What questions, Mr. Chairman, could this committee have put to any one of those Commissioners or officers? Absolutely none. Could I have asked, for instance—would it have been proper for me to ask, as one of this committee—a Commissioner, or superintendent, or employé, “Do you know of anything wrong having been committed in the management of the affairs of the park?” What sense would there have been in that? Therefore, considering the further fact that this investigation is assumed at least to be in the interests of the

people, and no definite charges, no specific charges, have been made, it became, I think, our duty, with that regard to the interests of the people that we claim to have, to prepare ourselves to properly and intelligently investigate this whole matter, and learn if there was anything wrong in it. For that purpose, and with that motive, and with that end in view, I favored this secret investigation, that has now continued for two days. Certain facts have been brought to the attention of the committee through that secret investigation. The committee has acquired a certain amount of information through that investigation, and we now desire to receive the explanations of the officers of the park concerning these matters that have been brought to our attention. This much, Mr. Chairman, in explanation of the course that the committee have pursued.

Mr. Broderick—Inasmuch as we have received, in our investigation, which has been private, sufficient to justify an investigation to be made in regard to park affairs, in accordance with the authority vested in us by the Assembly, I wish to move now, before proceeding any further, that in the examination of the witnesses that may be brought before us here, the examination be intrusted to the hands of Mr. Carson, of the committee. He has more experience in such matters than any other member of the committee, probably, and, as a matter of economy of time, I make this motion, hoping the committee will agree to it, so that we can pursue the examination in a proper way and expeditious manner.

Motion carried.

WILLIAM ALVORD sworn, examined:

By Mr. Carson—What is your occupation and residence?

A.—I am in the banking business now; Vice President of the Bank of California. President of the Pacific Rolling Mill Company. I reside in San Francisco.

Q.—Are you or not a member of the Park Commissioners?

A.—Yes, sir.

Q.—When were you commissioned, sir?

A.—About two years ago. Two years and a half. Some time during Mr. Otis' administration. I think, about two years ago.

Q.—You have been a regular attendant, I presume, since you have been a Park Commissioner. I presume you have attended the regular meetings of the Board?

A.—Always, when a meeting has been called. I don't recollect missing any.

Q.—To what extent do you understand the Commissioners go into the management of the park?

A.—Why, they have the entire supervision and management of the park. All appointees are under them, subject to their instructions.

Q.—With reference to contracts, for instance?

A.—They are authorized to make contracts, by and with the consent of the Mayor.

Q.—With reference to purchases?

A.—They are empowered to order purchases.

Q.—Order purchases?

A.—Yes, sir; they purchase themselves sometimes. Mr. Sullivan has frequently made purchases, and sometimes it is ordered after the Superintendent has made it, sometimes the Secretary; always with the knowledge of the Commissioners, I believe.

Q.—What has been the course usually adopted in that regard?

A.—Well, in purchase of supplies, do you mean?

Q.—In purchasing supplies.

A.—The Superintendent usually reports to the Commissioners what supplies are needed, and the Commissioners order them purchased.

Q.—Order him to purchase?

A.—Sometimes Mr. Sullivan goes and purchases himself. Very often numbers of bids are handed in for supplies, by numbers of parties.

Q.—What do they do?

A.—They select the lowest one.

Q.—Are those bids handed in on advertisement for proposals, or otherwise?

A.—I could not answer that. I don't recollect if advertised or not.

Q.—You don't know whether they advertised or not?

A.—I don't recollect.

Q.—Still bids are handed in frequently?

A.—Yes, we solicit bids in order to get the lowest prices.

Q.—How do you solicit bids?

A.—Send word around, may be advertise, for all I know. If it was any work in macadamizing, of course it would be advertised.

Q.—Now, with reference to appointees; who of your officers do the Commissioners appoint?

A.—They appoint the Superintendent and Engineer, the Secretary, and you may say all of them; because their names are submitted, the gardener and the keepers, and all that, are all submitted to the Commissioners.

Q.—By whom?

A.—By various parties, the same as the Police Commissioners receive requests from citizens to appoint men.

Q.—What I want to get at is, do the Commissioners appoint directly all parties employed upon the park?

A.—I think they do, all except perhaps some of the laboring men, and then the Superintendent appoints at the request, probably, of a Commissioner. For instance, when there is a force being put on to grading work, I may know three or four men I would like to have appointed—Mr. Sullivan, Mr. McLane, all send requests to put on such men.

Q.—In that event the Superintendent appoints?

A.—He appoints, but appoints under the direction of ourselves, except as he occasionally employs men that have not been recommended.

Q.—Which of your officers out there are appointed by Mr. Hall himself—by the Superintendent, as you say?

A.—I don't know a single one.

Q.—Then you would have us to understand that the Commissioners appoint everybody?

A.—They know of every appointment made.

Q.—I am not asking you that. I am asking you whether the appointment was made by the Commissioner. I am not asking simply for personal private knowledge of the absolute act?

A.—I answer that in this way: when the Superintendent has appointed any man the Commissioners indorse and approve of it. He may have appointed men; I have no doubt he has.

Q.—At the regular meetings of the Commissioners, or individually?

A.—No; at the meetings of the Commissioners.

Q.—What is recognized among the Commissioners as their duty, with reference to personal supervision of the park?

A.—Well, the Commissioners, I will say, in that—for more than two years I have been there five or six times a week; not less than that; almost every day, excepting Sundays, and occasionally on Sunday. I have not been able to do that since the panic here; financial troubles—of course that interrupted me. Since then I have been there only twice a week. Before that at least five or six times a week.

Q.—What has been the average length of time spent by you on each visit to the park?

A.—Well, the entire visit would not be more than about two hours.

Q.—Going and coming included, or two hours absolutely in the park?

A.—Well, about an hour and a half in the park; not always so long as that in the park. I could go out to the park, if I was in a hurry, and back again, in about an hour. I generally take about two hours.

Q.—So that your visits there, you will have us to understand, average about an hour in the park?

A.—Yes, sir; I should think so. Sometimes more than that. Sometimes I tie, and walk around for an hour or two. Always, when there are gangs of men at work making roads, and so forth, I visit once a day.

Q.—How frequently, during the two years you have been Commissioner, have the entire Board visited the park in a body?

A.—I don't know. Mr. Sullivan and myself have met often out there; but the entire Board—I could not answer that question; I don't know how often.

Q.—How often have you and Mr. Sullivan met there?

A.—I couldn't say; frequently. There never was any occasion to meet; no trials going on before the Court.

Q.—When any work—when any macadamizing has been proposed, in what manner has it been determined upon to do it?

A.—Well, I suppose, work of macadamizing—you speak of building roads, and so forth? We hire men, and send out, and set them to work in our own quarry; have our own teamster to haul, and build ourselves.

Q.—I am not speaking of that, particularly. I am speaking of the work itself. In what manner is the motion determined to do that work?

A.—Determine to do it in their meetings at the Park Commissioners' office, here.

Q.—Upon what basis have you usually acted in such cases?

A.—Basis of information furnished by the Superintendent and Engineer—is that what you refer to?

Q.—Yes, sir. Will you be kind enough to explain to the committee the manner in which subjects are suggested to you as Commissioners, and treated by you afterwards? I will refer, for example, to that large cut that has been made there. Take that, for example.

A.—I think that cut was mostly made before I was there. With regard to construction of most of those roads, it was done before my time; done during the administration of Butterworth and Selby, and

a number of others. But, then, that cut was to shorten the road—to make a more easy grade on the road to the beach, and at the same time use the material for constructing the road beyond there. But we found it would be such a deep and heavy expense, and so expensive, they built a road over the hill temporarily.

Q.—Well, has any large job been undertaken on that park since you have been Commissioner?

A.—No, sir.

Q.—Then, since you have been Commissioner, you have only been carrying out the plans?

A.—Of my predecessors.

Q.—What do you understand to be the duty of the Superintendent and Engineer?

A.—His duties as a general superintendent of the park and as an engineer; to draw maps and plans, and submit them to the Commissioners for their approval and indorsement. Maps and plans of the park were drawn and perfected before I was one of the Commission.

Q.—What other duties has he got to perform.

A.—I said general superintendent and engineer. All the duties are consolidated in that. All the men are subject to his orders, and all under him. We hold him responsible for the well preservation of the park.

Q.—You look upon him, then, as the executive officer of the Commissioners?

A.—Yes, sir; and if he didn't satisfy us we should discharge him at once. We hold him personally responsible for anything wrong.

J. T. FLEMING sworn, examined:

By Mr. Carson—Are you employed by the Park Commissioners, and if so, in what capacity?

A.—Employed by the Park Commissioners as Secretary.

Q.—Since when?

A.—First beginning, eighteen hundred and seventy-one—about June, eighteen hundred and seventy-one.

Q.—Have you been Secretary since that time?

A.—Yes, sir.

Q.—What has been your salary?

A.—Seventy-five dollars a month until the first of January, eighteen hundred and seventy-four, I was raised to one hundred dollars.

Q.—That is your salary to-day?

A.—Yes, sir.

Q.—How old are you, now?

A.—I was twenty-three years old the twentieth of last November.

Q.—You have possession, I presume, of all the books and papers and records of the Commission?

A.—I have.

Q.—Can you furnish this committee with a full list of the officers of that Commission?

A.—Yes, sir.

Q.—I would be glad if you would do so.

A.—I will have to make a statement from my books.

Q.—You have not your books here?

A.—No, sir.

Q.—Well, I would ask, Mr. Chairman, that this witness be

instructed to bring here the record book of minutes of the Commissioners, and the cash book and ledger. How many books are there?

A.—Record-journal, ledger, record of demands, bill book, bond book, check book, and voucher book, and several minor books.

Q.—Large books, are they?

A.—Well, the minute book is the largest of them.

Q.—You could bring them without any inconvenience?

A.—Yes, sir.

Q.—You may as well bring them all that you have mentioned. I ask, Mr. Chairman, the witness be instructed to bring the books before the committee.

A.—Do you wish to have them right away?

Q.—Yes, sir.

WILLIAM H. HALL sworn, examined:

By Mr. Carson—What position, if any, do you hold under the Park Commissioners?

A.—I am Superintendent and Engineer.

Q.—How long have you been so?

A.—I have been employed by the month since August, eighteen hundred and seventy-one. Previous to that time I had a contract to do some surveying, and did some little job work for the Commission.

Q.—What was your salary at that time?

A.—Two hundred and fifty dollars a month.

Q.—Just state, if you please, whether or not it has been increased, and when?

A.—It has been increased, but I can't state the dates now. It was increased some time afterwards to three hundred dollars a month, and since then to four hundred dollars.

Q.—How long has it been four hundred dollars?

A.—Less than a year I think.

Q.—Were there at any time any other privileges—any privileges accorded to you in addition to your salary; if so, state what?

A.—While I received two hundred and fifty dollars a month, and while I received three hundred dollars a month, I was allowed thirty-three dollars a month, to pay for the keep of a horse in town.

Q.—That stopped when, if at all?

A.—During that same time—to answer the question still further, during that same time, I was allowed to keep a horse at the park if necessary. That stopped at the time; that is, the thirty-three dollars a month stopped at the time my salary was increased to four hundred dollars, and I was then allowed to keep two horses at the park, but allowed nothing for keeping a horse in town.

Q.—What are your duties at the park?

A.—Well, sir, I advise all plans, and most of them I have drawn myself. I had a draughtsman employed only a small portion of the time. I supervise the work, supervise accounts at the park, approve the pay-rolls, let out the work generally. A portion of the time when there was a large force on, and a great deal of work going on, I had an assistant who did surveying, and took immediate charge of some portion of the work.

Q.—When you speak of devising plans, and laying out work, are we to understand that you consider yourself the landscape gardener of the Commissioners, or have you such an officer outside of yourself?

A.—In superintending the work of that kind it is necessary for an engineer to understand something of landscape gardening. I have at present a gardener who is a landscape gardener, with whom I consult about such things. During the first part of the work, up to within the last eight months, I had no such assistance.

Q.—Within the last eight months?

A.—I think the last eight months. Within a month or two, I can say. I had a gardener previous to that, but no one with whom I consulted, particularly, about plans.

Q.—What is this gentleman's name?

A.—F. W. Poppey.

Q.—Prior to that time—that is, before eight months last past—you considered yourself a landscape gardener of the Commission?

A.—Yes, sir.

Q.—And acted in that capacity?

A.—Yes, sir. I would state, however, there was very little work which was strictly landscape gardening work, done up to within the last year. It was pretty much all preparatory work for the gardening work; necessarily so.

Mr. Broderick—You stated you were Superintendent and Engineer of the Golden Gate Park?

A.—Yes, sir.

Q.—You are satisfied you can establish that you are an engineer?

A.—Yes, sir.

Q.—Can you establish that fact?

A.—Yes, sir.

Mr. Carson—In that connection I would also ask whether you consider yourself competent to act as a landscape gardener?

A.—So far as the work has gone on the park, I do. But realizing that I was not sufficiently acquainted with the gardening to carry the work any further than it had progressed, some six or eight months ago I requested the Commissioners to get a thoroughly posted gardener, and they sent East for one, and this Mr. Poppey is the man.

Q.—I may also inquire whether it has not fallen within the line of your duties to act as a botanist and horticulturist to some extent?

A.—On the park?

Q.—Yes, sir.

A.—To a very small extent; it don't amount to anything. I make no pretension to being a botanist, sir.

Q.—I desire to call your attention to some stone monuments that are said to have been on that park. I refer to Golden Gate Park, of course. I am not speaking of Mountain Lake or Buena Vista Park, or any others. I propose to confine this examination to Golden Gate Park, solely.

A.—Yes, sir.

Q.—Do you know anything of any stone monuments that were ever in use on Golden Gate Park?

A.—You mean on the park itself?

Q.—I am not so well posted on localities as you are, perhaps. I am compelled to make my question general. I speak of the park.

A.—I know all about stone monuments there; that is, as much as could be expected of them.

Q.—Tell us about them; how many there were; what they were put there for; and whether they are there now or not.

A.—I made a topographical survey, under contract, for the Com-

mission, before I was employed as engineer. Before I got at it I had information from the City Engineer as to the street monuments there, in order to find the corner of the park. In that way, I became possessed of some knowledge of the street monuments—official monuments; but it was a portion of my contract to find the park boundary by those monuments—a certain number. I have forgotten the exact number now. Those other monuments I set on the park boundary. I think there are twenty-five or twenty-seven altogether, all over the park. I can't be certain about that. It has been a great while ago. I think that is the number.

Q.—You set them there?

A.—Yes, sir.

Q.—What kind of monuments were they? Will you please describe them.

A.—They were granite monuments.

Q.—What size?

A.—About six inches square on top, and two feet and a half deep.

Q.—What were they worth, each?

A.—I could tell by looking at my books. I can't say what they were worth.

Q.—Who purchased them?

A.—I purchased them as a portion of my contract work, and put them in.

Q.—Did you deliver them to the Commissioners?

A.—Yes, sir; I took them there. Well, I didn't take the Commissioners around and deliver them. I reported the work was done. Colonel Connolly was of the Commission at that time. He was very careful. He went around and examined a lot of the monuments. I know some of them he could get at conveniently.

Q.—When the work was done, you have us to understand the monuments were to serve forever as monuments?

A.—No, sir; not necessarily to serve forever, at all.

Q.—That was included in your contract, to supply these monuments?

A.—Yes, sir.

Q.—But they were to remain there until—for use in future surveys?

A.—Yes, sir; intended to remain there to mark outside monuments; were intended to mark the boundary of the park. When there was a fence built on that boundary, it became no longer necessary to keep some of them there. The inside monuments were intended to mark survey stakes; and almost all of them are in position yet.

Q.—These monuments were regarded as much a part of your contract, and delivered to the Commissioners, as much as your services and labor was?

A.—Yes, sir.

Q.—In the matter of the survey?

A.—Yes, sir.

Q.—And were paid for by the Commissioners?

A.—Yes, sir.

Q.—Now, sir, do you know any of those monuments have been removed?

A.—Taken away from the park reservation, or taken out of the ground?

Q.—Taken away from the park reservation.

A.—No, sir; I never have.

Q.—Do you know—of course, I have to be leading, Mr. Chairman, in my questions. I will endeavor not to be. Of course, taking the course I am, I have to call the attention of the witness directly to the fact.

The Chairman—Very well.

Mr. Carson—Do you know of any of those monuments having been removed from the park to the house of one Hodnett, an employé of the park? Do you know of any of those monuments having been removed from Hodnett's house and taken on board the San Rafael boat?

A.—No, sir. Let me think. [Reflects.] Well, that circumstance I have not thought of for a long while. I won't be positive, but I think it is very likely that there were either four or six monuments taken from there. I could go to the park and examine and see whether they are there. But the thing has escaped my memory entirely.

Q.—Excepting your four or six, what was done with them?

A.—They are there about the ground, unless they have been stolen; most of them in the ground.

Q.—What was done with them on that particular occasion—I refer to the four or six that were removed?

A.—They were taken to San Rafael. I know that I took monuments to San Rafael. Jerry Hodnett was at that time an assistant of mine in surveying. I was going to San Rafael to execute a piece of work over there for Mr. Coleman, and I authorized him to get some monuments. Now, whether I told him to take those monuments from the park or not, I can't remember. If I did, why it was with the intention of acquainting the Commissioners of the fact.

Q.—I am not so anxious to learn what your intentions were; I simply want to learn what became of them.

A.—I took monuments to San Rafael; I can go to San Rafael and examine those monuments and see if they are the ones, because there are particular marks on them.

Q.—Did you use in San Rafael the monuments you took from the park?

A.—I used monuments in San Rafael; yes, sir.

Q.—You think four or six?

A.—Yes, sir.

Q.—In this connection let me inquire, for whom were you working in San Rafael at that time?

A.—Mr. W. T. Coleman.

Q.—Can you fix the time when you made that survey for Mr. Coleman?

A.—No, sir; I can't. It was—well, it was before I was employed by the month for the Commissioners of the park.

Q.—What is that?

A.—It must have been before August, eighteen hundred and seventy-one. That was the date I was employed by the month by the Park Commissioners.

Q.—It must have been before that?

A.—Yes, sir.

Q.—Do you know anything of any tents that were used out there?

A.—Yes, sir.

Q.—Tell us, if you please, what you know about those tents?

A.—When I took the contract to survey the park I purchased four tents; two of them sixty dollars each, and two forty dollars.

Q.—They were your own property?

A.—They were my own tents. When work commenced at the park, there was no shelter there for the men. I took my own tents out there, and used them to shelter the men on stormy days in the winter. They remained there after the stable was built, and were placed in the loft. When the work of reclaiming the land out there was commenced, we had to have some shelter for the seed and for the watchmen out there, and in the meantime one of my tents, the big one, was torn up entirely, and the canvass used in the stable. The other tents were used on the work of the park, out on the sand, and about three years after, they went to the park. There were two tents left; two big tents left, and a small one. They were probably somewhat damaged, but they were still serviceable tents, with some little mending, which was made on them. The man is there still who mended them. At that time there was a good deal of property—my own personal property—that was in the use of the Park Commissioners. I represented the use to them, most of the articles, and asked them if they would take them off my hands for what they were worth.

Q.—I am only asking you about the tents.

A.—Well, then, the tents were sold to the Park Commissioners. Three tents.

Q.—At what time?

A.—I can't state the time. It was from two and a half to three years after they were first taken out there; let us see, that must have been eighteen hundred and seventy-two or eighteen hundred and seventy-three. Well, the bills will show the dates. I can't remember.

Q.—Was any use made of those tents since that time?

A.—Yes, sir.

Q.—Where?

A.—Out on the sand. I have made use of them on my own private work, too. I have so reported to the Park Commissioners. And last year, a year ago, I paid them for the use of the tents, notwithstanding they had the use of my tents for three years without paying me.

Q.—That was for your own accommodation was it not, while you were complying with the contract?

A.—No, sir. They had the use of my tents for certainly over two years. For two winters after my employment by the month, and the tents were torn in their use. They were nearly good tents when taken there first.

Q.—At the time you put up those tents for the purpose of carrying out your contract with the Commissioners for a survey, I believe, of the entire park?

A.—Yes, sir.

Q.—What kind of a survey was that you were to make under the contract?

A.—It was a very minute topographical survey of about three hundred acres of the reservation.

Q.—And the last survey of that portion of the reservation lying in the sand—lying west?

A.—Yes, sir.

Q.—How much did you receive for that survey?

A.—Four thousand eight hundred and sixty dollars.

Q.—How long were you employed in making that survey?

A.—I think I was in the field between three and four months, and then a month—about three months in the office. I was nearly seven months altogether, sir.

Q.—In the field three or four months, and in the office about three months?

A.—Yes, sir.

Q.—Were you in the office before or after the survey?

A.—No, sir; was in the office during the survey—was after the survey. I was in the office drafting during the field-work, but the entire length of time was about seven months, I think.

Mr. Carson—How many men did you have employed in that private contract?

A.—I had a transit and leveler, two chainmen, at one time two axmen, and another portion of the time a draughtsman, besides some men.

Mr. Broderick—That would make nine altogether?

A.—I didn't count them.

Q.—Well?

A.—Yes, sir.

Mr. Carson—Did you know, before you began your survey there, of a topographical survey of that ground having been made by the United States?

A.—Yes, sir.

Q.—By whom was that made?

A.—It was made partially by Captain Rogers of the Coast Survey, and by Mr. Chase, Assistant in the Coast Survey.

Q.—Did General Alexander have anything to do with it?

A.—No, sir. The survey was made for the Engineer Department of the Coast Survey, but did not have anything directly to do with it.

Q.—How long before your survey had that one been made?

A.—That one had been made a year—about three years before.

Q.—Didn't you then find a greater portion of the work was ready, done to your hand?

A.—No, sir; I did not.

Q.—Did you at all avail yourself of that survey that had already been made?

A.—Not in the slightest degree.

Q.—Was it correct?

A.—The one that had already been made?

Q.—Yes, sir.

A.—The one that had already been made was a plane-table survey, made in the Coast Survey, still on a very small scale, the lines of which would have been entirely useless by which to plan a scheme for laying out the park.

Mr. Broderick—Had the ground changed. Do you know whether or not the ground changed any time during that three years?

A.—As a matter of course it changed where the sand drifts, but the ground might have changed in this way, and might not. The Coast Survey was made from what is known as the Black Point bench mark. The Park Survey was made from the City bench

mark. The map that I made of the park, by my survey, represented a piece of ground of about three hundred acres, on a piece of paper seven by six feet. The same space on the Coast Survey would be a piece of paper about one and one-half by two and one-half or two and three-fourth inches.

Q.—Wouldn't that be simply a matter of enlarging by the scale?

A.—Sir?

Q.—Wouldn't that be simply a matter for a draughtsman to enlarge or diminish by a scale?

A.—Why, no, sir. It could not have been done by any possible circumstance. If you will allow me to state, I was required, in my survey, to give the height of the ground as near as a foot, and the curves were three feet apart, only. In the Coast survey, it gave the ground as near as twenty feet; so that anything on that field not between twenty foot lines, was not counted in the Coast Survey at all.

Mr. Broderick—In your judgment as an engineer, the survey made by the United States would have been of no service to you whatever?

A.—Not the slightest. I can prove that.

Mr. Carson—How did you obtain that contract from the Commissioners for this service?

A.—I obtained it by bidding in competition with other engineers.

Q.—Were proposals asked for by public advertisement?

A.—No, sir; they were not.

Q.—Are we to understand, then, you were requested by the Commissioners to present a bid?

A.—Yes, sir.

Q.—Do you know of any other engineers having been similarly requested?

A.—Mr. Charles Hoffman—I think it was Charles or John, I don't know which—Mr. Alfred Petty (?), Mr. R. L. Harris, and Colonel Delanza, whom I don't know. I was personally acquainted with only one of those gentlemen at that time.

Q.—State if you know which one of those gentlemen you have just named put in bids.

A.—Mr. Delanza, Mr. Harris, and myself. Mr. Hoffman was called away from town and did not get in his bid. He had it prepared, I heard afterwards.

Mr. Broderick—You don't know whether you were the lowest bidder or not, do you?

A.—Yes, sir; I do know.

Q.—The records of the Commission show that?

A.—The records of the Commission show that; yes, sir.

Q.—Have you a copy of the report with the map?

A.—No, sir; I have not.

Q.—Will you be kind enough to explain to us the necessity for that deep cut that is along the northern side of the park?

A.—Do you mean out on that roadway, out yonder?

Q.—Yes, sir; the one where the road goes up over the hill.

A.—There is a side road that goes up over the top of the hill—on the top and down the side of it.

Q.—Yes, sir.

A.—The intention of that?

Q.—Where is that?

A.—Where this tunnel is marked.

Q.—That is opposite Nineteenth Avenue?

A.—Yes, sir. The intention was to carry the road through there ultimately. It would have been cut all the way through, but the character of the rock was found not to be suited to macadamizing, so that we stopped cutting there as a quarry, and took rock from the top of the hill to finish macadamizing the road with.

Q.—Top of what hill?

A.—Top of the hill right adjoining the cut, to finish macadamizing the road with. Built a temporary road around the cut, and the intention is to finish it when it is necessary to get more material of that kind to build other roads.

Q.—What was the necessity, I ask you again, to cut that tunnel.

A.—The necessity was to cut a road through a sufficiently easy grade, and to avoid sharp curves.

Q.—What is the difference between the proposed grade of this cut you are making now and the road at present over the hill?

A.—We are not making a cut, now; the cut has been made. Well, the difference in the level and height is about forty feet—thirty or forty feet—I don't know exactly.

Q.—What is the distance between this cut that has been made, and the present road?

A.—Sideways?

Q.—Yes, sir. What is the distance?

A.—One hundred and fifty to two hundred feet; may be, a little more.

Q.—Are we to understand that you have abandoned this cut?

A.—No, sir.

Q.—Or this proposed road?

A.—No, sir.

Q.—You merely suspended operations on it?

A.—Yes, sir. The intention was: I calculated the amount of material in that—that was to come out of that cut—fixed the grade, so that it would be using the material for macadamizing the length of roadway to be built; that the cut would be finished when the road was all surfaced. It turned out that the material in the cut was not suitable for macadamizing; something that could not have been told until we cut into it. We expected, as I told you, to build this side road, and had to have that material to build the road with; and I should have had to cut from some place else if that cut was not made. All the material was used in building the road.

Q.—How deep is that cut at the deepest point?

A.—Thirty feet; something like that—may be thirty-five—may be a little more on one side.

Q.—Has it not involved, and will it not involve, the Commissioners in a large, and perhaps unnecessary, expense, sloping those cuts?

A.—No, sir; it has not.

Q.—Or fencing them, or making them safe for persons occupying the park?

A.—No, sir. The intention is to leave the sides of that cut in as rough and rugged condition as it will stand up. It is all rock, and at a very slight slope it will stand—planting such trees and bushes and plants as will thrive on rocks, and make it something of a feature. In the first place, it was planned as a tunnel; that was when the preliminary plan was drawn up, but afterwards changed. And to protect it at the top, to keep people from going over the edges, there

will be a forest along there—trees planted thick. It is not intended people shall go along there, at the top, at all.

Q.—I will ask you, is it not the general design of park projectors to make the ground, as laid out as a park, approach or imitate nature as closely as possibly?

A.—Yes, sir.

Q.—Do you consider, then, that running an open cut, such as has been done here, and projecting a tunnel through a hill, followed on the other side of the hill by a cut—open cut—is that a close imitation of nature?

A.—It is a feature that has been introduced into every park that has been built, of which I have any knowledge. It may be treated so as to be a close imitation of nature, and make a feature there which could not be made on those grounds without actual—

Q.—You speak of easy grades being planned. Has your object been to make all the roads in this park as nearly level as possible?

A.—No, sir; by no means.

Q.—What was the chief difficulty about the grade that you had to overcome in this particular locality?

A.—In that particular locality the chief difficulty was that the height to be overcome was a little too great for the distance we had to overcome it in; about forty feet to the grade.

Q.—Let me inquire right here, might you not from the very entrance of the park to this tunnel, have shortened the distance considerably by running a straight road through—following a straight line, for instance?

A.—Yes, sir, at a very much increased expense.

Q.—Has it not been your object to get as much driving distance as possible in the smallest space?

A.—Yes, sir; no, sir, I can't say it has been the object to get as much driving distance as possible. It has been the object to locate those roads judiciously—according to the rules which govern such improvements, and avoid making straight lines as much as possible, to give the road a gentle easy sweep, following the natural configurations of the ground.

Q.—Do you consider, then, you have followed the natural configuration of the ground, in your abandonment of this temporary road, you call it, which you must admit does follow the natural configuration of the ground to a large extent, and cutting an absolute tunnel through a hill at the depth of thirty feet and over?

A.—I should consider that I have acted in accordance with a rule or rules in improving such ground that any engineer would have followed under similar circumstances.

Q.—You was merely looking at it in an economical light?

A.—There has been no extravagance in that, for the reason, as I told you, all the material from the cut has been used in constructing the road, and was necessary for that purpose.

Q.—Well, are there no other places on the park from which such material could have been got; such material as you sought, could have been got?

A.—By hauling it, probably a mile and a half, a greater distance, we might have got some material, but it would have exhausted the quarries in the park. It would have greatly increased the expense of constructing the road, and it would have marred the grounds in

the finished portion of the park, or in the better portion of the park, to a considerable extent.

Q.—How would it have marred them?

A.—It would have cut a hill all away right in the middle of it. If the material was required it would cost no more one place than the other, or very little more.

Q.—As a matter of fact, you didn't find material, you state?

A.—Yes, material was there; that I stated; but not all the material. I stated that I thought I would get some rock out of there for the top dress, and didn't get it. You can't tell what the character of the rock is going to be. Furthermore, it is a portion of the design to construct a side road over the hill, also.

Q.—That is the road that already exists there?

A.—Yes, sir.

Q.—You propose to preserve it?

A.—We propose to preserve it.

Q.—It is not simply a temporary road?

A.—No, sir; it is not a temporary road. I have spoken of it as a temporary road to distinguish it from the main road. But the design shows a road over the hill already; but not following that exact line. Still, this road that is there answers the purpose of the design.

Mr. Broderick—The grade is very steep on the other side, towards the ocean—the road you use now?

A.—Yes, very steep, and there is a sharp turn there. There has been one or two upsets there. Vehicles going down hill have upset, and to avoid that I planned a road on an easy sweep—an easy grade.

Mr. Carson—Where would your road be, providing you undertook to avoid making that cut, and took your road to right where it would go to.

A.—It would go outside the park grounds. That cut, as you see, is very near the edge of the park grounds, now.

Q.—How was it you laid out a road, that had such a sharp curve in it, that wagons were upset there. How did you come to lay such a road out?

A.—Because a road over the hill could not be made any other way without great expense. It was not intended, I told you, for through travel. The great mass of travel will go on this main road, when it is constructed. I don't mean to say that this place, where these upsets occurred, is a dangerous place. It is only dangerous to some people, who drive down, probably not in a condition to drive at all.

Q.—Allow me to call your attention to this piece of road here—the corner of the south drive, with a line drawn from Second Avenue?

A.—Yes, sir.

Q.—You did a great deal of grading, did you not—a great deal of cutting there?

A.—Yes, sir; there was considerable cut there.

Q.—What was the necessity of that?

A.—The necessity of that was to carry that drive there on a reasonable, gentle, curved line. There is a point of land, you see, here—there is a hill I could show you on the ground, that would have necessitated a sharp curve around, like that, made just such a place, probably, as we have on this other place, beyond one of those sharp turns. Furthermore, in order to get an easy grade through there,

the material that came out of that cut was necessary to make a fill here and a fill there. [Showing.]

Mr. Broderick—That lake extended across the line of the road?

A.—No, sir. It never did extend across. But there was considerable depression. This road here is thirty feet—may be twenty-five or thirty feet above that. There is a depression there about ten feet of that distance—eight or ten feet.

Mr. Carson—Could not this road have been laid out to the north of this lake?

A.—Yes, sir; certainly.

Q.—At a much less expense, and all this heavy grading and filling have been avoided?

A.—No; not at much less expense. It could have been laid out, probably, at a little less expense there. The whole place can be improved at less expense. The question is, whether it is the way to improve it or not.

Q.—Had you done so, would you not have left the natural features of the ground more than you have now?

A.—No, sir; I think not.

Q.—You have a place here marked lawn, to the north and west of the lake; could you not have brought that road from the main entrance drive up through that lawn, where you have walks laid out now?

A.—Certainly, it could have been brought there.

Q.—What would have been the difference in expense between making the road in that way and making these heavy excavations and fillings that you have already done?

A.—It may have been a little less expensive, but it would have been at the sacrifice of an open plain, that we have now for a lawn. Furthermore, that plain that is now marked "Lawn," and raised up to an even grade, was a series and succession of very deep hollows and holes, little patches of water, and intervening ridges of sand that would have had to be filled up in constructing a road.

Q.—Have you had many occasions to change the grade that you have once established out there?

A.—The principal grades of the road?

Q.—Any grades. I am not prepared to specify.

A.—The only grades that are established and fixed are the principal grades on the road after the preliminary survey. I have had occasion to change them on one or two occasions. Other grades I didn't establish arbitrarily, for I find I can do the work much more economically by working, in raising a grade here and there, or a little there, as I find material is going to come out even.

Q.—How often did you change the grade in the avenue drive, as they call it—this entrance between Staniel, Clayton, Oak, and Fell streets—that is, in the avenue drive between Staniel and Clayton streets?

A.—I think it was changed once. Some little changes were made there.

Q.—How near was the road completed when you made these changes you speak of?

A.—There was one place, about a half a block in length, or a block in length, where the grade was raised, at the lower end, I think, about a foot, or a foot and a half, and it received a coat of clay on it.

After grading the road-bed, it had received a coat of clay on poor rock, that was intended to take the place of clay, but it wasn't complete. It had not received any dressing of rock. I think there was about a foot and a half of the lower end, and going off to nothing, as it came off. The circumstances of changing that grade: It was necessitated by the changing of the grade on the street, outside Fell street, which was thought judicious to do by, I think, Colonel Connelly. This Colonel Connelly was then a Commissioner. He consulted me about it, and he came to the conclusion to have that street corner raised, as it would have made a depression in our road there, and destroyed the fine ascent that there is now in that avenue.

Q.—Is Fell street within your limits?

A.—No, sir. Of course, that was done by the Board of Supervisors.

Q.—That is what I was going to inquire, whether the Commissioners or yourself changed the grade of the street?

A.—No, sir. It was represented by Colonel Connelly, to the property owners adjoining, to be advantageous to raise it, and they signed a petition to have it done there. The Board of Supervisors made the change. Now, I am not perfectly positive about that, but I think those are the circumstances of changing that grade. Furthermore, if there had been no such circumstances, and I thought it was to the advantage of that park to have changed the grade, I would have done it.

Q.—You would have changed the grade of the road?

A.—I would have changed the grade of the road, even if it cost a little, or something to do it. I would have spoken to the Commissioners about it.

Q.—But not the grade of the streets?

A.—No, sir.

Q.—Can you specify any of those changes of grade you made?

A.—During the progress of grading the avenue there, after the contract was let; there was a change of grade on Oak street all the entire distance along; also done at the recommendation of Colonel Connelly, which necessitated changing the grade in the avenue to conform with that. There was quite a big change; these made a big difference in the amount of material and disposition of it.

Q.—I understand that change in the street grade was first made by the Board of Supervisors.

A.—Yes, sir; the contract for grading that avenue was let before I was employed as engineer. After I became engineer, upon consultation, it was determined to have that grade changed. There were reasons for it, which I can give, if you want them.

Q.—Well, we will be glad to hear them.

A.—Well, the reason was to have a sideway slope in that avenue of eight or nine and maybe ten feet in some places, pitching crossways from the grade of Oak street, on the south, to Fell street on the north—a side slope. It was very desirable to do that, and get the avenue squarely level crossways, as we could, and therefore that grade was raised a little on Fell and a little on Oak, to bring it up even. There is a cross pitch of three to five feet in some places, but it don't show as it would have done.

Q.—Can you mention any other instance in which you changed the grades?

A.—There was that main change on the avenue, I spoke of last,

and then the other change came after that. The other change was a small change in comparison.

Q.—In the same locality?

A.—In the same locality.

Q.—That makes two changes in the same locality on that avenue?

A.—Yes, sir. But there was no work done on the place where the second change was made, nor did the first change necessitate doing any work over again.

Q.—Can you specify any other instance?

A.—I can't remember any other instance.

Q.—What sewers have you built there on the park?

A.—Big sewers?

Q.—Yes, sir.

A.—There is a sewer crossing the avenue diagonally at about this intersection with Masonic Avenue, and another down near this end of the avenue alongside of it.

Q.—Near Baker street?

A.—Yes; and another one built in Baker street; it is at the crossing of Fell.

Q.—Are there any sewers in the park proper?

A.—No large sewers in the park there. There are box drains about a foot large.

Q.—Is there any sewer leading from that lake on the left, towards the main entrance drive?

A.—Leading from it—leading away from it? No, sir; it has no outlet.

Q.—Describe that sewer if you please, or drain, or whatever you please to call it.

A.—There is no sewer leading away from it; that is to say, there is a sewer leading into it, but none leading from it.

Q.—From where?

A.—From the grounds up in this direction; up to the lodge; up to the eastern boundary of the park; up in this general direction [showing on the map].

Q.—How long is that sewer?

A.—I can't state the length of it.

Q.—What is the size of it?

A.—The main portion of it is a box drain, about six by eight inches in size, I think, or eight by ten inches in size; I can't tell which; made out of two-inch redwood. It is not regarded as a permanent improvement.

Q.—How long is it?

A.—I couldn't state how long; I don't know the exact length; the map will show it.

Q.—Can you estimate here on this map what the length is?

A.—Well, there is one drain goes up there six or seven hundred feet—eight hundred feet. And then other lateral drains branch off in all directions, or, at least, in several directions.

Q.—That drain, you say, has no outlet now?

A.—It has an outlet into the lake. There is a piece of drain laying there, about a hundred feet in length, which has no outlet, and nothing connects with it.

Q.—Locate that on the map?

A.—I see it marked there, now, about the direction, but not a line as near as that; but about a hundred feet; may be, a little more.

Q.—Why was that put there?

A.—It was put there, in the first place, to drain that section of the country above; at the lower end of the drain. It was an open cut first, then I laid a box in to drain, and during that winter the cut became filled up with sand. The lawn wasn't graded at that time. This drain then drained into one of the holes I speak of being all through the lawn. There were a series of holes and hollows when I came to put in this other drain, which was somewhat more permanent. It wasn't worth while to dig up that piece of drain. It would cost more to dig it up than to make another piece like it.

Q.—What did it cost to put it in there?

A.—I can't tell. I could estimate.

Q.—How deep was it? How much excavation?

A.—It was probably covered over by seven or eight feet of sand. The natural surface of the ground was three or four feet higher than that—steep.

Q.—This other sewer or drain, you have spoken of, with the lateral drain leading into it, that is in absolute use now?

A.—Yes, sir; drains all that section of the country.

Q.—In this cañon you designate your lake?

A.—Yes, sir.

Q.—Is there any outlet to that lake?

A.—No, sir; not yet.

Q.—Did you form another sewer from this central lake?

A.—Yes, sir; there is another sewer there.

Q.—In what direction does that run?

A.—Somebody has been kind enough to mark that on the map, very nearly.

Q.—Down in a place designated as the valley?

A.—No; this is the valley here. It goes in another little valley.

Q.—What is the use of that sewer?

A.—To drain that little valley and the road adjoining it.

Q.—How long is it?

A.—About a hundred feet.

Q.—What is it made of?

A.—Redwood. The same size as the other. Either six by eight, or a little bit more. If you give me an opportunity I will tell you the reason for laying those redwood sewers.

Mr. Broderick—Please explain to the committee that character of sewer that is there now, and what it is intended to do?

A.—The reason that character of sewer is there now was because most of the ground where it was laid was a series of hills and intervening ridges. And there are certain portions that will settle more than other portions. To have laid in an iron-stone drain pipe at that time would have been a waste of money. It would have been knocked out of shape, sunk in some places, and the joints would have been broken. This redwood sewer, in long boxes, will stand on such fills and hollows as have been filled in, much better than any other kind. That was one reason. Another reason was, because it is not regarded as a permanent improvement. It would have been impossible to have formed any thorough plan of drainage for the park, for the reason that there is no drainage plan for the adjoining streets, and the park drainage system has to conform to that of the streets adjoining. That is no permanent plan of drainage.

Q.—There is no permanent plan established by the city for the adjoining streets?

A.—No, sir. I have portions of the plan for the park drawn up—a good deal is on paper, in a rough way, but I can't fix it definitely until I have something to go by.

Q.—This style of sewer is the most economical way of draining the park at this particular time?

A.—That portion or some particular spot. Since that time there has been iron-stone drain pipe laid down permanently. You will find in my report to the Park Commissioners, that has all been explained as long ago as two years ago.

Q.—At what depth is this redwood you have last spoken of?

A.—About eight feet under ground. I think it is not more than eight feet deep, at the deepest part. Probably not as much as that. It is within about two feet and a half, at the upper end.

Q.—You use there a large quantity of iron pipe?

A.—Yes, sir.

Q.—Water pipe?

A.—Yes, sir.

Q.—Can you estimate, roughly, how much you use there?

A.—The last report to the Park Commissioners shows exactly. I can't tell without looking at it.

Q.—Seventeen thousand five hundred and forty-nine and a half feet, laid?

A.—Yes, sir.

Q.—Is that correct?

A.—Yes, sir; there may possibly be an error in the figures.

Q.—Do you know of any of that pipe having been laid on the surface?

A.—You mean laying on top of the road.

Q.—Yes, sir?

A.—No, sir.

Q.—Do you know of any of that pipe that is not in use now?

A.—That—that is marked as laid?

Q.—Any pipe you have laid not marked as laid, but that you have absolutely laid.

A.—Yes, sir; I know of a piece, I think there is a length, or two lengths of galvanized iron, two-inch pipe, that lies now in a place we have in grass. I didn't take it up for the reason I didn't want to cut the grass, and it lays there; two lengths about twenty-five feet long.

Q.—Do you know of any iron pipe, approximating to some two thousand feet, laid somewhere in the park—I can't say, for the moment, just where it is—that has neither outlet nor inlet?

A.—No, sir; I do not.

Q.—I believe you have a well there, on the park.

A.—Yes, sir.

Q.—What are the appurtenances to that well? Just describe the well—its size, capacity, cost, machinery attached to it, its cost, the tank connected to it and its cost, and the pipe connected with tank, machinery, and well.

A.—Well, I can't describe all that definitely without the statistics. They are all matters of record, and I can bring them here and show them to you.

Q.—You can give us a general description.

A.—It is a well about nine feet in diameter. I am not certain even of that, nor certain about the depth. It may be fifty, and may be seventy. It has a wooden curb in it. The tank is one of those Cooper tanks, only without bands around it. It is, of course, a dug well. There is a double-acting lifting pump, two cylinders, and a little steam engine that moves it.

Q.—What is the horse power?

A.—'Pon my word, I don't remember.

Q.—About the tank?

A.—The tank is supposed to hold twenty thousand gallons, I think, or thirty thousand gallons.

Q.—When was that well built?

A.—I can't remember the date. I have papers will show it all.

Q.—About how long ago?

A.—Between three and five years ago.

Q.—How long was that well used?

A.—It was used for one season entirely, and a portion of another season.

Q.—How long is a season?

A.—I speak of a season as through the summer, when it was necessary to pump five or six months—seven months.

Q.—Then you stopped off using it altogether.

A.—Yes, sir.

Q.—Why did you stop using it?

A.—For the reason that the Park Commissioners then made some arrangement with the Water Committee, by which they got water from the company.

Q.—Has there always been water in that well sufficient to serve the purposes for which it was intended?

A.—No, sir.

Q.—Were you not advised, at the time you were sinking that well there, not to do so?

A.—Well, I have had advice from a good many people.

Q.—Yes, but this from an assistant under you?

A.—From an assistant engineer?

Q.—I don't know his precise position, but he was a superior employé of some kind.

A.—I don't remember that I was, sir. It is very likely, I should have taken my own notion about it if I had been, for I didn't have any assistant engineer at that time whose experience or reputation was worthy of credence.

Q.—I don't ask about superiority.

A.—I don't know whether I had or not. I had no assistant engineer, there. Nobody I regarded as an engineer.

Q.—You were in the habit of following your own notions about things, were you not?

A.—No, sir; I wasn't altogether. When I found somebody I thought knew something more than I did, why I took their advice. I found a great many such people.

Q.—How long is it since that well has been put to any use whatever—well, engine, tank, and all the appurtenances?

A.—The two past seasons it has not been used, and I am not certain about the season before that. I think it was used some the season before that—probably within three seasons.

Q.—That means three years, I presume?

A.—Yes, sir; but I think it was used some in the three years back.

Mr. Broderick—Did you strike a water seam in sinking that well?

A.—Yes, sir; there is a water seam there.

Q.—Have you any idea what amount of water can be obtained from that well as it stands?

A.—It depends on the season of the year. Take a very dry time; in a dry season there probably could not be more than twenty or twenty-five thousand gallons pumped in a day.

Q.—How much water do you estimate is required for the use of the park now?

A.—We have used during the past two seasons as high as seventy-five or eighty thousand gallons a day, sometimes.

Q.—Can you state the average?

A.—During the season of the year when we are watering the trees and sprinkling the road, we use from forty-five to eighty thousand gallons; very seldom as high as eighty thousand; sixty, sixty-five, and seventy thousand.

Q.—You might call the average sixty thousand?

A.—Yes, sir.

Mr. Carson—I find here, sir, that your average number of gallons used per day—I read this from your report: January, eighteen hundred and seventy-five, five thousand five hundred and sixteen; February, fifteen thousand five hundred and seventy-three; March, thirty-one thousand four hundred and forty-nine; April, forty-eight thousand six hundred and forty-seven and one-half; May, fifty-two thousand six hundred and fifty-eight; June, sixty-three thousand four hundred and seventy-two; July, sixty-one thousand and twenty-two and one-half; August, fifty-six thousand six hundred and fifty-six; September, sixty-two thousand five hundred and twenty-one; October, forty-six thousand seven hundred and eighty-two; November, three thousand eight hundred and sixty-five. Have I read correctly?

A.—Yes, sir; I think so. That would make the average that summer something like sixty-five thousand, I suppose.

Q.—Do you know whether the Commissioners ever paid the Spring Valley Water Company any water rates whatever?

A.—Yes, sir.

Q.—How much?

A.—They paid two bills of four hundred dollars; two or three bills of four hundred dollars each.

Q.—Well, now, taking your assertion that this well furnished from twenty to twenty-five thousand gallons of water per day, and your average being sixty thousand per day—taking your highest month, sixty-three thousand—don't you think you could have saved a good deal of money to the Commissioners by keeping that well in operation, supplying just that quantity, and only using from the Spring Valley Water Company the balance?

A.—No, sir. In the first place, we could not have pumped water there, on the small scale upon which those works are constructed, as cheap as the Spring Valley Water Company could furnish it.

Q.—Can you give any further explanation why the water could not be pumped with the machinery on such a small scale?

A.—Simply because the cost would have been more, sir.

Q.—Why, you make an assertion that you could not pump water with machinery on such a small scale? I don't understand you.

A.—Well, sir, in pumping water, raising water by machinery, the larger the works the greater the amount of water you raise, the less the amount it costs per gallon or thousand gallons. Now, this small pump never was regarded as a permanent improvement there, merely a trial well, made with a view of establishing the fact or not, that there was water there to be had, and how much.

Q.—Then may I understand you—may I infer now, from what you said, that you, having designed this well for a certain size, of a certain supposed capacity, furnished machinery to that well that was insufficient to take the body of water out of it?

A.—Take the body of water from the well for use?

Q.—Yes, sir.

A.—No, sir; the machinery is sufficient to take all the water the well could furnish.

Q.—I am still more in the dark. Well, we have the water, we have twenty to twenty-five thousand gallons of water per day in this well; we have the Park Commission paying four hundred dollars for water per month, for between fifty and sixty thousand gallons of water. What I want to get at is this: why this machinery and well, if kept in operation, would not save at least or nearly one-half of that four hundred dollars per month by supplying what the well furnished?

A.—Well, the Park Commissioners made application to the water company to take water through a meter, paying for as much as they received. The company would not make any such agreement. They should pay so much a month for the privilege of taking as much water as they want, up to a certain amount.

Q.—What was the certain amount?

A.—A hundred thousand gallons.

Q.—That is, they would not contract for less than that?

A.—They wouldn't make an agreement. We were left there without water; that is, the pump would not raise as much as would be required at the season this proposition was made, and the Park Commissioners had to come to this compromise with the water company.

Mr. Broderick—For four hundred dollars a month you might use twenty-five thousand gallons, or one hundred thousand gallons?

A.—That is the understanding.

Q.—No less than one hundred thousand gallons would be the basis on which they made the agreement?

A.—One hundred thousand gallons.

Q.—I think I understand your answer in regard to the machinery. Do you mean to say that it would cost more to run that machinery to get the use of twenty-five thousand gallons of water than it costs for buying that amount of water in the contract with the water company?

A.—No, sir; I do not.

Q.—In other words, what would be the cost of running that well and engine per month?

A.—I can't state just now.

Q.—Would you want an engineer?

A.—No; it would not be absolutely necessary to have an engineer. It would be absolutely necessary to have a man, you would probably

pay four dollars a day, who understood running an engine—four or five dollars a day.

Q.—That would be every day in the week?

A.—Yes, sir.

Q.—How much would the fuel cost, in your judgment?

A.—Well, 'pon my word, I don't know. I don't mean to say, sir, it would cost more to pump the twenty-five thousand gallons out of that well, than twenty-five thousand gallons cost from the water company; but I do mean to say, that the Commissioners being privileged to take water up to the extent of one hundred thousand gallons a day, for four hundred dollars a month, it would be useless to run that well. It would be just spending that much money for nothing.

Q.—Then I understand you to say, in your capacity as engineer there, that this well, tank, and engine were placed there as an experiment to determine whether water could be drawn out or not?

A.—Yes, sir.

Q.—That was as much of an experiment as you thought proper to go into?

A.—Yes; we did not succeed in finding the water there that I hoped to, and having but a small amount of money on hand, didn't deem it judicious to begin to experiment.

Mr. Carson—You had in the employment of the Park Commissioners at one time a man named Man. In what capacity was he employed?

A.—As a foreman.

Q.—Did he ever work in the office?

A.—Yes, a short time; he did work in the office here in town, and he may have worked a little in the office out there; I don't remember.

Q.—How was he employed in the office, in town?

A.—He was employed in drawing some little details—maps.

Q.—Will you be kind enough to state whether or not, during the time he was so employed in the office in town, he made a map of the survey that you made for Mr. Coleman, that you spoke about at San Rafael, or did anything in the way of making a map?

A.—If he ever did any such work it was—

Q.—I am not asking you if he did, I am asking you whether he did or not?

A.—He may have done it, or may not; I don't remember.

Q.—He was under your orders, was he not?

A.—He was under my orders; yes, sir.

Q.—You know Mr. Coleman, I presume?

A.—Yes, sir.

Q.—Do you know Mr. Fitzhugh?

A.—Yes, sir.

Q.—Who is he?

A.—Well, there is one Mr. Fitzhugh who is my father-in-law; there is another one who is a relation of his.

Q.—Did you ever make any survey for your father-in-law?

A.—No, sir, I never made any survey.

Q.—Did you ever have any maps copied for Mr. Fitzhugh?

A.—Yes, sir.

Q.—State, if you know, whether that man Man ever copied any maps for Mr. Fitzhugh?

A.—Yes, sir, he may have done so.

Q.—Under your orders?

A.—Yes, sir. If it was under my orders it was during time which he was not paid for by the Park Commissioners; after hours. If he worked during hours, it was without my knowing it. If he worked on outside work during office hours, it was without my knowledge, or at least without my consent.

Here the committee took a recess until two o'clock.

AFTERNOON SESSION.

WILLIAM H. HALL recalled.

I would like to correct my testimony on one point. Mr. Man may have ranked on the pay-rolls at one time as a draughtsman; I am not certain about that. I stated to you he was a foreman; he was a foreman the most part of the time. About those monuments—I should like to ask permission to examine into the condition of the monuments there at the park, before stating positively about it. It is a matter that has escaped my mind entirely. You can send any one out with me you want to, to see how many there are, and where they are.

Mr. Carson—Is that all the explanation you desire to make?

A.—Yes, sir.

Q.—When you took charge of the park, did you or not find a nursery there?

A.—There was a nursery there; yes, sir; the commencement of a nursery.

Q.—To the right of the main entrance drive, directly west of Fell street?

A.—Yes, sir; close to Fell street.

Q.—Did you move that nursery?

A.—Yes, sir.

Q.—To where?

A.—I moved it to bordering the southern line of the park—two thousand feet west of Stanyan street.

Q.—Near the southern limit of the park?

A.—Yes, sir.

Q.—Why did you move it?

A.—Because it wasn't in a suitable place.

Q.—Why?

A.—It was right at the entrance of the park, just where the finishing improvement was expected to be. There wasn't limit to extend it to the full size that would be required. It was a nursery; the nursery is not an improvement—that is supposed to be very sightly. It was in the most conspicuous place in the park.

Q.—Why did you select the locality where it is now?

A.—Because it was in a great measure sheltered from the wind, which is very desirable; because it was off to one side, out of the way of general improvement, which is intended for the public; because it was in the neighborhood to which soil could be hauled from the adjacent hills; because it would be out of the way of the main drive of the park; and because, in a general way, I thought it to be the most fitting place for it.

Q.—Is it not, as a matter of fact, very close to the southern drive?

A.—And as a matter of fact, it is out of sight of it.
 Q.—By reason of intervening hills?
 A.—Because there is an intervening ridge.
 Q.—Was there no other locality on the park that could have been used as cheaply, and the same effect as that one?
 A.—There might have been other localities, and I think there was, that could have been used as cheaply, but not to the same effect.
 Q.—Was there other localities that could be used at less expense?
 A.—No, sir.
 Q.—Have you or not been compelled to fill any great portion of this locality that you have chosen as a nursery?
 A.—I have been compelled to grade it off to a proper surface. There is one portion of the ground, a little sand ridge running through it, and right along side of it was a hollow, and I cut off the ridge, and dumped it off into the hollow, and straightened things out a little bit.
 Q.—What was the height you have taken off in the way of grading?
 A.—There might have been a cut there of six or seven feet. It may have been a little more.
 Q.—How much have you filled up?
 A.—About an equal quantity.
 Q.—Well, was there no other place on the grounds you have located a nursery, where you could have avoided that cutting and filling?
 A.—No, sir; no suitable place.
 Q.—No suitable place in the entire park?
 A.—No, sir; there was not.
 Q.—You make that assertion positively?
 A.—Yes, sir; positively.
 Q.—On that whole park, there wasn't a suitable place for a nursery except this?
 A.—I make that positively—no suitable place for a nursery. It may be a matter of question as to what a suitable place for a nursery is.
 Q.—That I don't propose to discuss; because I don't know anything about suitable or unsuitable.
 A.—I don't mean to say that in reply to your question, but as bearing on other evidence that may be given here as to difference of opinion.
 Q.—What did it cost to remove that nursery?
 A.—Including the grading preparatory to putting it in this present place, you mean?
 Q.—Yes, sir.
 A.—That is a matter of record. I can look at the reports of my Superintendent, who had charge of the work, and tell very near what it cost.
 Q.—Have you got the reports here?
 A.—No, sir; I have not.
 Q.—Did you keep any special account, I will ask you right here, of the labor expended in that removal, and in that grading and filling, and the preparations of this nursery location?
 A.—No distinct account. There was an account I have, in general terms, under the head of grading in the nursery valley, and other expenses in removing the glass house over and putting it up again, and those accounts will show the expenses of putting up those sheds that are there. From those I think I could get a very close idea of the cost of the removal.

Q.—It would be well to prepare some statement as to the cost.
 A.—Very well, sir.
 Q.—Was there any cord-wood cut upon that park under your administration?
 A.—Yes, sir.
 Q.—How much?
 A.—Not cord-wood; stove-wood.
 Q.—Fuel?
 A.—Yes, sir.
 Q.—What quantity?
 A.—I don't know, sir.
 Q.—Did you keep any account of that, whatever?
 A.—Yes, sir; there has been an account latterly; for after the first year of the work the account has been kept pretty close.
 Q.—During the first year was any account kept of the quantity of stove-wood cut?
 A.—There was an account kept in this way: at a certain period, after this wood had been cut and chopped up, it was reported to me how much there was on hand.
 Q.—What disposition was made of that?
 A.—As a general thing it was kept there on the ground and used on the ground.
 Q.—For what purpose was it used on the ground?
 A.—It was burned in the furnace that run the little engine; burned in the house of the foreman—
 Q.—You refer to the engine at the well?
 A.—The engine at the well.
 Q.—That was in use some five or six months?
 A.—Yes, sir. It was burned at the house of the foreman. It was burned over at the nurseryman's house; some of it; may be not much, but some of it burned at the lodge, and burned at the gate house.
 Q.—Was ever any of it sold?
 A.—I don't remember that it was. I don't think there was. It was advertised for sale, and there were no satisfactory bids put in.
 Q.—Do you know a man named Hodnett; an employé there?
 A.—Yes, sir.
 Q.—What capacity was he employed in?
 A.—Foreman. In the first place he was a laborer, and afterward made foreman, or assistant foreman. I don't know if he ranks on the pay-roll.
 Q.—Did he have charge, at all, of this fuel that had been cut on the park?
 A.—Not particular charge.
 Q.—Did he have any charge whatever?
 A.—Yes, sir; I may have told him to look out for that fuel. He was working a gang of men right near where it was being worked.
 Q.—Did you ever instruct him to sell any of it?
 A.—I don't remember to have.
 Q.—Do you know that he did sell any?
 A.—I do not.
 Q.—Did he ever pay you any money for wood that he had sold?
 A.—He did not.
 Q.—Did you ever give any orders to any person for that wood, or any portion of that wood?

A.—I may have done so; yes, sir.
 Q.—To whom?
 A.—I don't remember.
 Q.—What quantity?
 A.—I don't remember.
 Q.—Do you know whether the wood was delivered in accordance with those orders, or not?
 A.—I do not.
 Q.—By what authority did you issue those orders for that wood?
 A.—I don't remember, sir.
 Q.—Did you live out at the park at any time?
 A.—No, sir.
 Q.—You lived in town?
 A.—Yes, sir.
 Q.—Did you ever have any wood hauled to your house?
 A.—There was one load of wood hauled to my house, yes.
 Q.—Did you pay for that?
 A.—No, sir.
 Q.—Only one load?
 A.—That is all, to my knowledge.
 Q.—Do you know whether any of this wood was sold by you to a man named Doyle?
 A.—I don't remember the circumstance.
 Q.—Do you remember whether you ever gave that man Doyle an order for any wood?
 A.—I don't remember the circumstance. Would you like to know the circumstances of this load of wood being sent to my house?
 Q.—If you desire to make an explanation.
 A.—I do. A load of wood was sent to my house, in my absence, by my assistant there.
 Q.—Which assistant?
 A.—I have forgotten, now, who it was; but I remember the circumstance of my wife telling me that load of wood was there, when I got home, and I returned to the park and gave instructions it should never be done again, and it never was.
 Mr. Broderick—I was going to ask you whether you have any memorandum, or anything, that would enable you to determine whether you ever did give an order for that wood?
 A.—No; I have not.
 Q.—You have to trust to memory, altogether?
 A.—Yes, sir; trust to memory.
 Q.—Well, if there was not wood sold under your direction, would the money be paid to you, or any other officer out there at the park, or at least some officer in the park, to put it in this proper channel?
 A.—It might have been paid to me in trust to deliver to the Secretary, but the proper way would be to pay it to the Secretary.
 Q.—That would have been the proper way of paying the money?
 A.—Yes, sir.
 Q.—So this man may have received money paid for that wood, but not to you?
 A.—Not to me, that I remember.
 Mr. Barber—You didn't send that load back to the park, you found there?
 A.—I did not. It would have cost as much to send it back as the wood was worth.

Q.—Did you pay anything for it?
 A.—No, sir; nothing whatever. It was hauled down there by one of the cartmen, on his way home at night, and I gave instructions the next day that it never should be done again, and it wasn't. I should have been very foolish to have gone to the expense of two or three dollars to have had it hauled back again.
 Mr. Carson—This wood was cut by men regularly employed on the park?
 A.—Yes, sir.
 Q.—Were they employed by the cord, or so much a day?
 A.—At that time, I believe they were paid by the cord.
 Q.—How much were they paid by the cord?
 A.—For chopping it up into small stove-wood, I think four dollars and a half, is about it. It was these big oak stumps.
 Q.—The only uses, then, to which this wood has been put, to your knowledge, have been what you have specified?
 A.—Yes, sir.
 Q.—The foreman, somebody else, the lodge, and the gate-house, and the steam engine?
 A.—And the steam engine.
 Q.—You have not used any wood in the steam engine since that time, I suppose?
 A.—Nothing to speak of.
 Q.—What quantity of wood do you know is out there now?
 A.—Chopped up?
 Q.—Yes, sir.
 A.—I don't know. I don't know how much is chopped up. It is being chopped and burned all the time. I paid no attention to it.
 Q.—Is there any record in the office of the Commissioners to determine how many cords of wood was cut?
 A.—I don't believe there is.
 Mr. Broderick—No books or anything of that kind to show the amount of labor expended on cutting cord-wood, and the quantity of wood cut.
 A.—Yes; there are. In the first place, when the wood was first cut, it was paid for by the cord, as I told you. That will show how many cords were paid for. That is to say, vouchers will show how many cords were paid for. Then, since then, the reports of my assistant there will show, how many days' labor had been spent in cutting wood. It is marked down—one man, cutting wood, such a time.
 Q.—Do any of the reports show how many cords of wood were estimated in the assets of the Commissioners, as property upon the ground?
 A.—No, sir. I don't believe they do. The park-keeper may have a memorandum of that, but I am not positive about that. It was not regarded as stock on hand.
 Q.—The account of the Commissioners, or rather the account sent in, and your reports, will show the general cost of engineering, grading, and gardening, and such things in detail, under the separate headings?
 A.—Yes, sir.
 Mr. Carson—Since you have been in the employ of the Commis-

sioners—since you have been acting as superintendent—have you had any outside contracts of your own?

A.—Yes, sir.

Q.—Just be kind enough to tell the committee what they were, and with whom?

A.—Engineering contracts.

Q.—Have you had contracts of any kind in the neighborhood of the park?

A.—Yes, sir; I have a contract for reclaiming a lot of sand there.

Q.—Just describe that, if you please?

A.—Describe the sand?

Q.—No; describe the contract.

A.—It is a contract with owners of this property.

Q.—Who are they?

A.—I can only name a few of them: Paul Rousset, E. Pascal, F. Berton, W. H. L. Barnes, John Nightingale, B. Richardson. Is it necessary to name all of them?

Q.—Oh, no.

A.—That is as near as I can remember now.

Q.—Now, describe where the property is that you were to reclaim, and what the character?

A.—The property is the first three tiers of blocks lying south of the park, west of about Seventeenth Avenue. I am not certain as to the number of the avenue to the beach.

Q.—To the great highway?

A.—Yes, sir.

Q.—Three blocks?

A.—Three blocks wide and extending west to the beach.

Q.—What was the character of your contract?

A.—The character of my contract was to reclaim the land, and produce sufficient vegetation on it to keep the sand from drifting generally, for so much an acre.

Q.—When did you begin that contract—begin to work under that contract, I mean?

A.—A year ago this past October, I think, or November.

Q.—Did you complete the contract?

A.—I have not completed it yet; no, sir. That is, it is growing now. I can't say whether it is completed or not. It may not be necessary for me to do the same work on it, and it may be; I can't tell.

Q.—What has been your system of reclamation there?

A.—Planting seeds, barley, and lupine, and cultivating them in.

Q.—Have you ever, in the performance of that contract, employed any men, teams, or material from the park?

A.—I have never employed any men on that contract, that, at the time they were employed on the contract, were paid by the park. I never have employed any teams that were, at the time they were engaged outside of the park, paid by the park. I have never employed any material in the work that belonged to the park. I have employed some rolling-stock—that is, a wagon or two and a big roller, and the use of those tents, and the use of some harrows, or plows and cultivators, which I reported to the Park Commissioners and paid them for the use of.

Q.—Have you ever employed any men?

A.—I say that, relying to a great extent upon the reports of my assistant, who had charge of that work. I was on the ground every

day myself, and knew where the foreman was working, and knew all the material that went out there, and I have his written reports on the subject. I believe them to be correct, and I would almost be willing to swear to their correctness—though, of course, I can't be bound. I wasn't there every hour of every day, by any means.

Q.—Did you at any time work any man on your private contract, who was employed at the time by the Park Commissioners?

A.—Not to my knowledge.

Q.—Did you ever pay any man partially for his labor on your private contract—pay him in coin, partially, for his labor on your private contract, to make up the difference of that labor in a voucher on the treasury?

A.—That is to say, approve a voucher on the treasury for the money?

Q.—For the balance?

A.—No, sir; I never did.

Q.—Did you or not employ a man named Patrick Burns on your private contract?

A.—I did; yes, sir.

Q.—Do you remember any period of about ten days when he worked on your private contract, for which you gave him five dollars and fifty cents in coin, yourself, when his wages were two dollars per day?

A.—No, sir.

Q.—And subsequently made up the difference of six dollars and a half, in a voucher, forming a part of a voucher on the treasury?

A.—I never did, sir.

Q.—Did you or not employ a man, named Patrick Ward, for some nine days upon the private contract, and subsequently, having paid him ten dollars for the nine days' labor, he being employed at the rate of two dollars per day, make up the difference in a voucher on the treasury?

A.—Patrick Ward was employed on that contract. How many days he worked, the pay-roll will show. How much I paid him, the pay-roll will show. How much he received from the treasury, the voucher will show. The time he worked on the park, the park pay-roll will show, and the report of my assistant, with his certificate, will verify; according to those records, I am willing to testify, not otherwise.

Q.—Do you remember having paid Patrick Ward ten dollars, in coin, out of your pocket, for nine days' labor upon the contract?

A.—I remember having paid Mr. Ward for the work he did for me; whether ten dollars, or nine dollars, or not, I can't say.

Q.—Having employed him for two dollars a day, would you consider him fully paid for nine days' labor, if you paid him ten dollars in coin?

A.—I certainly should not; no, sir. I paid him eighteen dollars, and he worked for me nine days.

Q.—At the time you were performing this private contract, were the Commissioners aware of the fact that you were using men and teams employed by the park, in the performance of this contract?

A.—Where they aware?

Q.—Yes, sir.

A.—I didn't use men and teams.

Q.—Men and teams, and plows, and harrows, and cultivators, you

have sworn to yourself—that were in the habit of being employed on the park?

A.—Yes, sir; they knew that.

Q.—At the time?

A.—Yes; they knew it.

Q.—Did they offer any objection?

A.—No, sir.

Q.—Did you report to them before you commenced using these things—report to the Commissioners?

A.—Yes, sir; I told them of my intention of using them.

Q.—I will ask you what your understanding was—what your contract was with the Commissioners, as to whether your undivided attention should be given to the park, or not?

A.—My understanding with the Commissioners has never been that my undivided attention should be given to the park; not even now, sir.

Q.—Do you believe that the park, and its interests, suffered at all while you were devoting yourself to this private contract?

A.—I didn't devote myself to the private contract.

Q.—You certainly must have been there, some time.

A.—I employed an assistant; yes, I was there—there on the ground every day, with the exception of some days when it stormed. I don't think the park's interests ever suffered by my absence.

Q.—At the extreme western end of the park, there is a brush fence, I believe?

A.—Yes, sir.

Q.—Is the continuation of that fence on private property?

A.—No, sir.

Q.—Is there a fence there, a brush fence, something of that character?

A.—Yes, sir.

Q.—Running south from the park, along the western line of some private lands?

A.—No, sir; there is not. It is a great highway reservation, one hundred feet west of its eastern line.

Mr. Broderick—One hundred feet west of the eastern line of private property?

A.—Yes, sir.

Q.—It is not on the boundary line of this private property?

A.—One hundred feet east of the western line of the great highway—the western line of the private property.

Q.—That brush fence continues beyond the southern line of the park, as part of the great highway?

A.—Yes, sir.

Q.—Did that brush fence continue north of the south line of the park, along this great highway extending along the western end of the park?

A.—Yes, sir.

Q.—The full distance?

A.—Yes, sir; the full width of the park.

Q.—And you have continued it down the great highway south?

A.—Yes, sir.

Q.—Was it necessary to continue that south on the great highway for the protection of the park property? Why did you continue it down?

A.—I continued it down there to protect the plantation that was made on that property south of the park. It was continued in that direction especially for that purpose at that time, but it is a portion of an improvement which is contemplated along the entire highway. Had there been money sufficient at the command of the Commissioners, I would probably have been authorized before now to continue it the whole length of the highway.

Q.—It had no bearing, however, upon protecting the lands covered by your private contract, which you had undertaken to reclaim?

A.—It had no bearing.

Q.—Did it or not?

A.—It did have a bearing.

Q.—By whom was this brush fence south of the park line constructed?—at whose expense?

A.—It was constructed at the expense of the park.

Q.—Yet you confess it had a bearing on the protection of this land, covered by your private contract.

A.—Yes, sir; undoubtedly.

Mr. Broderick—Have you continued that with the consent and knowledge of the Commissioners?

A.—Yes, sir.

Q.—Was it discussed by the Commissioners?

A.—Whether at a meeting of the Board or not, I am not certain, but I spoke of it to at least two of the Commissioners, and got their authority to put it. I am quite certain.

Mr. Carson—Do you know of any trees having been cut down?

A.—Before leaving that other subject, just let me make a statement.

Q.—Certainly; that is just what we are here for, to hear your explanations of these things.

A.—It is not only necessary to protect the park on the west side from drifting sand, but it is necessary to protect the park on the north and south sides from sands that blow in on each side of it. The plantation which I made on the south side of the park, had it succeeded as well as I hoped, would have protected the park for about two and a half miles of its length on that side. All the drifting sand that would have come from the south, or further south, would have blown on the high plantation, instead of blowing on the park, as it had done for a year or two years after the park improvement; therefore, in my plantation, I had protected the park for two and a half miles of its length, while this fence protected my plantation half a mile. Furthermore, the reclaiming of that land out there is so much to the benefit of the park, in other ways, that I can expend that time. It would become the duty of the Commissioners, as soon as it was reclaimed, to protect it on the beach side, seeing that they have authority to improve that great highway, according to a plan which necessitates the protection of lands inside of it.

Q.—Did you extend this brush fence north of the northerly line of the park?

A.—No, sir; because there was no necessity for it at that time.

Q.—Has there been since?

A.—No, sir.

Q.—What do you say?

A.—At the time the brush fence was built.

Q.—Why do you say, at that time there was no necessity for it?

A.—I mean at the time the work was going on.

Q.—There is no necessity now?

A.—No, sir.

Q.—The sand is drifting in, however, from the sand out there from the north—drifting in on the park?

A.—The extension of the brush fence, however, would not protect the park there. It would simply protect the land, which is not reclaimed. It would necessitate a brush fence along this northern line to protect it.

Q.—Now turn to the trees. Do you know of any trees being cut down?

A.—Yes, sir.

Q.—Just state, if you please, as near as you can, the number of, and kinds of, trees that have been cut down?

A.—Well, that is very hard for me to do. It may have been five hundred, or it may have been a thousand trees. I have authorized the plantation to be thinned out at such points. How many trees were taken out I really can't say.

Q.—Was there no other way to thin the plantation out, except absolutely destroying the trees, by cutting them down?

A.—No, sir.

Q.—It could not be done otherwise?

A.—No, sir. It is a thing done in all cases; and more necessary on this improvement than probably any other improvement of the kind in the country.

Q.—Who had planted these trees that were cut down; under whose administration had they been planted?

A.—I was Superintendent of the park at the time.

Q.—Can you estimate, at all, the ages of the trees that were cut down?

A.—They were two or three years old; may be four.

Q.—What use were those trees put to when they were cut down?

A.—They were carried out and used in the construction of this brush fence, and they were also used in patching up little places in the sand drift that had got loose again.

Q.—Do you know the kinds of trees that were cut down?

A.—Mostly pines and cypress.

Q.—Acacias?

A.—Very few.

Q.—Gums?

A.—There may have been some gums, yes.

Q.—What was the average value of pine trees from three to four years old?

A.—The value of those pine trees where they stood?

Q.—No, sir; the value of pine trees from three to four years old?

A.—It depends entirely on the location. A pine tree in a nursery, three or four years old, would not be worth anything, because it could not be moved very well.

Q.—What were those pine trees worth, then?

A.—Right where they were?

Q.—Yes, sir.

A.—At that time they were cut?

Q.—Yes, sir.

A.—They were worth nothing.

Q.—How much had it cost the Commissioners to prepare the

ground? What was the average cost per tree, to the Commissioners, to prepare the ground, purchase the shrubs, cultivate it, and bring it to the perfection that it was then in, at the time it was cut down?

A.—That is something that I could not possibly tell.

Q.—You have had the management of this park for many years, and you should certainly be able to make estimates of these things, at least?

A.—You see, sir; there may be a spot of land, where this took place, where there is a growth of trees, and another spot of land where they are not. I can't so separate the accounts as to say just how much money has been spent here, and how much there.

Q.—I don't want the actual figures of the expenditures. I want simply your estimate, from the knowledge and experience that you have acquired out there the last four or five years. I want your estimate of the expenses of the Commissioners?

A.—I can't give it without consulting my notes or memorandum, and then it would only be approximate.

Q.—Do you know anything of any stakes having been cut out there?

A.—Yes, sir.

Q.—How many?

A.—There may have been twenty-five hundred.

Q.—Were the trees cut down with them, or were the trees then left unsupported.

A.—No, sir; the trees were left without the stakes.

Q.—Why were the stakes cut?

A.—Because it was not deemed necessary that they should stay, in most instances.

Q.—In other instances, why were they cut?

A.—Well, I may say in all instances it wasn't deemed necessary.

Q.—What was the average length of those stakes so cut down?

A.—Eight to ten feet.

Q.—What depth were they inserted in the ground?

A.—One and one-half to two feet.

Q.—Was it necessary to use the axe to take those stakes away? Absolutely necessary?

A.—It was absolutely necessary.

Q.—They could not have been pulled out of the ground by any means at all?

A.—I don't think so; they could not have been pulled out of the ground economically. It would cost more to pull them out of the ground at the time they were cut than the loss on them.

Q.—Now, in making that estimate did you add, in addition to the loss on the stakes, the labor expended in repointing such stakes, if they were repointed?

A.—Yes, sir. You would do that.

Q.—Did you do that in making your comparison now?

A.—Yes, sir. I would do that. It is very small.

Q.—A moment ago you stated it would cost more for the labor to pull the stakes out of the ground than the loss on the stakes would amount to—by being chopped off eighteen inches or two feet, would amount to.

A.—Yes, sir.

Q.—I ask you now, in making that estimate, did you take into

account the addition in the loss on the stakes—the cost of the labor in repointing these same stakes if you use them again?

A.—Well, I didn't at the time. But I think I would do it, and still make the same assertion.

Q.—Still be of the same opinion?

A.—I can't be positively certain about that thing without making some figures about it.

Q.—Were these stakes, or not, used again?

A.—Some of them have been used. Most of them have been stacked up—put away.

Q.—When you had these trees cut down, what use did you make of the land again?

A.—Of the exact spot where they were cut off?

Q.—Yes; that neighborhood?

A.—It was leveled off and put in shape. There may have been some stumps back of that.

Q.—Did you extract the stumps?

A.—In some instances; I think they were in most instances, but I am not certain. Our gardener has charge of that, and the foreman.

Q.—Have you not, as a matter of fact, had trees planted in these very localities—trees of the same character planted there again?

A.—Yes, sir.

Q.—Will you be kind enough to explain to us again the advantage to the community that you found in destroying a tree that had been put in the ground and raised with care for three or four years, and immediately substituting in its place other trees of the same character, and young ones?

A.—The trees that are on the windward side of a group generally are blown to pieces. Their shape, their appearance is destroyed. Their beauty is marred very much. Such trees were cut away, and other similar ones—young ones—put in their place. Furthermore, in a group of trees, it wasn't desirable to have all of the same size. These trees that were cut away had been protecting others which had been growing in the meantime, and had obtained a good form, a good outline. Those others were brought in the foreground by cutting away those in front.

Q.—Then, are we to understand—

A.—[Interrupting.] Then again, sir, the instances have been very few, comparatively, where exactly the same kind of trees have been planted in the same place, and, furthermore, where these trees have been cut away, in by no means a majority, and very small minority of cases, have there been those trees planted at all, of any kind. In more instances there have been shrubs planted—low-growing shrubs. In other cases trees were cut out of the middle of the group, right at the center, with the intention of thinning out. By reference to my reports, concerning the improvement there at the park, it will be seen, and the reason given, for planting trees so close together. And it has been said, from the very first report I made, that it was designed to cut those trees out and cut them away. That work just commenced this last fall.

Q.—Where you cut a tree down, that was on the windward side, because it was blown out of shape, and wasn't a pretty tree, I would like an explanation of your course in planting a small shrub in the same place or same locality?

A.—A small shrub may be better fitted to withstand the effect of

the wind and the dust that is blown on it, and if it was planted there it was undoubtedly much more suited to the locality, as forming a foreground to the group of trees behind.

Q.—But, for instance, your large, healthy, three-year-old tree was on the windward side, and served as a protection to the trees on the leeward, would you have us to understand a small shrub would furnish the same protection?

A.—No, sir; I would not.

Q.—Would you have us further to understand you are not endangering the next tier of trees?

A.—Yes, sir. I would have you understand that the next tier of trees, during the time they were protected, had attained their strength and shape which enabled them to resist the wind, which would not be attained in growing.

Q.—They could not be blown out of shape?

A.—Not as if they would have been if too young, or when they were young.

Q.—Do you remember a large quantity of cypress—young cypress trees raised in the old nursery there?

A.—Yes, sir.

Q.—How many were there originally?

A.—Eight or nine thousand.

Q.—What has become of them?

A.—Three or four thousand have been taken away, and the rest are there yet.

Q.—Taken away where?

A.—Many planted in the ground; some of them given to the public institutions here in town.

Q.—That is, a small number?

A.—Yes, sir; all those that were given away.

Q.—The total given away altogether is seventeen hundred and ninety-nine?

A.—Seventeen hundred and ninety-nine would be a considerable portion of two or three thousand.

Q.—Were there not about sixteen thousand young cypress trees altogether in that nursery?

A.—There may have been that many the first year they were put out.

Q.—Well, you have planted, you say, two or three or four thousand, and the balance remain in the nursery now.

A.—When I said there were two or three or four thousand planted, I meant there were that many planted which were left in the nursery when it was abandoned—abandoned when the nursery-houses were moved.

Q.—Well, what use was made of those remaining in the nursery?

A.—They are standing there yet.

Q.—What use can be made of them?

A.—A year ago, when we were planting, I had consultations with the gardener; we had them upon that very point; the cypress tree hadn't turned out to be a very good tree.

Q.—What was the name of the gardener, may I inquire?

A.—He is not in the employ of the park now?

Q.—What is his name?

A.—J. S. Henderson. The cypress tree had not turned out to be a

suitable one for planting out on those sands. I had expected to use a great majority of that nursery-full of trees out in the sand, but it had turned out that it was the least fitted of all the trees we experimented with for that purpose. Therefore I didn't take that nursery-full of trees and set them out on the sand to die, as I felt a great majority of them would do, after our experience. We didn't have the means at disposal to prepare the ground, to put them—to set them out along at this end of the park. In setting trees out in the sand it is only necessary to go and dig a hole and put them in, where you intend simply to make a forest; but in setting out where there is a finished ground to be prepared, you want to shape the ground some first. The ground wasn't shaped sufficient to put trees in, therefore they were allowed to stay; and I determined to make a maze of it just as it stands; to cut out suitable walks there and make what is called a maze, an improvement which is found in most grounds of the kind.

Q.—Do you or not know that good cypress trees that have remained, or were permitted to remain in that nursery for the last year or eighteen months, are now useless for the purpose of being transported and cultivated?

A.—I do know it would be useless to attempt to move those trees and expect any large proportion of them to grow. A good many of them would, and after last year's plantation I never contemplated removing them. I left them there with the intention of making this maze I speak of.

Q.—Do you know those cypress trees were neglected, and permitted to remain there a year, or two years, too long in that nursery?

A.—No, sir; I don't know of anything of the kind. I know up to last year, when this consultation took place, that those trees might have been removed as well as any other trees in the park.

Q.—And flourished just as well afterwards?

A.—Well, no; it is never as well to plant out a large tree, as it is a very small one, but still, there are such trees sold in every nursery in town. Most amateurs would prefer them. A tree three or four feet in height, would sell just as well as a small one.

Q.—Don't you know as a matter of fact, these cypress trees are good for nothing excepting to chop up and make stakes of?

A.—No, sir; I don't know as a matter of fact, anything of the kind.

Q.—What other use could be made of them?

A.—Use them in making this maze.

Q.—That is, a winding pathway?

A.—Putting narrow winding walks through.

Q.—Do gum trees require irrigation?

A.—Not in all cases; no, sir.

Q.—What has been the result of your efforts in that regard, out in that patch—out in the sandy portion of the park?

A.—We put out about eight or nine or ten thousand gum trees a year ago there, and nearly all of them are alive, I believe, excepting what were destroyed by the rabbits. The rabbits ate off a great many of them when they were quite young.

Q.—Did you receive at the park, quite recently, a large number of gum trees?

A.—Yes, sir.

Q.—How many?

A.—Ten hundred and fifty.

Q.—When did you receive them?

A.—Within the last two weeks, or three weeks.

Q.—Where did you buy them—did you purchase them?

A.—Yes, sir; I purchased them.

Q.—By authority of the Commissioners?

A.—Under a resolution of theirs to that effect.

Q.—Instructions direct from them?

A.—I am not positive. There is a resolution on record, but that it was not instructions, I am positive.

Q.—From whom did you buy them?

A.—From a man by the name of O'Connor, a seeds man.

Q.—Where is his place of business?

A.—On Sansome street, near Clay street.

Q.—What did you give per thousand for them?

A.—Forty dollars.

Q.—Do you know what the market value of trees of that character was, at that time?

A.—Well, sir; I inquired. Yes, I was told from forty to fifty dollars a thousand.

Q.—Do you or not know that about that time, trees of that character were advertized in the public press for seventeen and a half dollars a thousand?

A.—No, sir; I do not know anything of the kind.

Q.—Should that now be brought to your attention, and should you be convinced that trees of that character could have been bought, at that time, from fifteen to seventeen and a half dollars a thousand, would you imagine yours to have been an economical purchase?

A.—No, sir; I should not.

Q.—Did you inquire the price of trees of this kind prior to making this purchase?

A.—I inquired of a gentleman by the name of Bailey, over in Alameda; but it wasn't immediately at that time—it was, may be, a month before—I asked him what he would furnish those trees to the park for.

Q.—Do these trees vary much in price?

A.—Yes, sir. It depends upon the condition of the tree, and the way they are placed in boxes—and every thing.

Q.—I mean, does the market vary. Sometimes they are very costly, and then again the market is so that you can buy them cheaply?

A.—Yes, sir; I suppose they do.

Q.—Well, did you inquire from any other person the price of these things, besides Mr. Bailey?

A.—No, sir; I don't believe I did. I think Bailey and O'Connor were the only two persons I went to.

Q.—So you inquired of Mr. Bailey a month before making the purchase, and then purchased from Mr. O'Connor at forty dollars per thousand?

A.—Yes, sir.

Q.—Do you know a Mr. Enright?

A.—Yes, sir.

Q.—What is his name? Enright?

A.—Yes, sir. Before leaving the subject of those trees, I would like to state that the value of a tree depends entirely on its condition. Trees may have just the same appearance in the box; they

may not be placed in the box in a manner which will enable a person to remove them, and plant them out successfully; or they may not have been raised and treated in the manner, the method best to succeed in an exposed place.

Q.—You told me, at the outset of this examination, you were not a horticulturist and gardener, or a landscape gardener, or botanist; now, do you profess to be a judge of all these things?

A.—Yes, sir; I think I am sufficient judge of those trees to be able to purchase them.

Q.—I just want to know if you acquired that experience during the time you were in the park?

A.—I acquired that experience during the time I was in the park, and I had some experience before.

Q.—Did the gardener have anything to do at all with these purchases?

A.—No, sir.

Q.—Did you consult him at all?

A.—No, sir.

Q.—As to the amount of trees you were buying?

A.—No, sir.

Q.—Do you consider him a better judge of a tree and its value than you?

A.—Of most trees, I do.

Q.—And of gum trees?

A.—No, sir.

Q.—You don't consider him a better judge than you are of gum trees?

A.—No, sir.

Q.—Or of their value?

A.—Well, the judge of value—a judge of value would imply a judge of the condition of the market; now, if he is better posted in the condition of the market than I am, he would be a better judge.

Q.—Would you put your opinion against his in the matter of the style in which they were set in boxes, and all those little details you referred to a moment ago?

A.—You mean the head gardener?

Q.—I don't know whoever your gardener may be—whoever the professional man may be?

A.—There will be no question about that; there would hardly be a difference of opinion between people who knew anything about it at all.

Q.—I am not asking you that; I ask you for what your opinion gives.

A.—I think I would; yes, sir.

Q.—And for that reason you didn't deem it necessary to consult him upon this subject?

A.—No, sir.

Q.—This Mr. Enright I spoke about, was formerly employed on the park?

A.—Yes, sir.

Q.—In what capacity?

A.—In the first place as a foreman; afterwards he was called Park-keeper, and still later, assistant engineer.

Q.—Has he left that employment, and if so, when?

A.—Yes, sir; he has left. He left last spring sometime; I can't tell when—spring or summer, somewhere along there.

Q.—Do you know what his business is now?

A.—Contractor, I believe.

Q.—That is, grading and filling?

A.—Yes, sir; general street contractor.

Q.—Do you know of any contracts he has superintended on lands in the neighborhood of the park?

A.—Yes.

Q.—Have you sufficient knowledge of those contracts and the subject to tell us what it is?

A.—I saw a notice in the papers that he and his partner had been awarded a contract to grade Stanyan street, and Mr. Enright himself told me that he had a contract to grade Waller street.

Q.—Well, have you, or not, any interest in those contracts of Mr. Enright?

A.—None whatever, sir.

Q.—Did Mr. Enright ever do any work for you, on your private contract?

A.—Yes, sir.

Q.—What work did he do there?

A.—He superintended the work.

Q.—At what time. At what time did he superintend the entire work?

A.—He superintended the entire work during the whole time the work was going on.

Q.—How long did that occupy?

A.—About seven days at one time, and four days at another, I think.

Q.—Was he then in the employ of the Park Commissioners?

A.—He obtained leave of absence from the Park Commissioners for two weeks, without pay. He spent eleven days working for me, and three days he worked for the park, he got nothing for.

Q.—The Park Commissioners could afford to dispense with his services there?

A.—Seeing that I staid on the ground more regularly than I otherwise would, and attended to his duty myself, as well as my own.

Q.—So that the interests of the park didn't suffer at all?

A.—Not the slightest. Furthermore, Mr. Enright had been employed there a long time, and was deserving a leave of absence, even with pay.

Q.—Well, in this connection, let me ask you, what has been the average time that you have spent, per day, upon the park, during the time you have been employed there?

A.—Well, if that question is intended to show—

Q.—Never mind arguing, Mr. Hall. Do not discuss the motive of the question with me. I am not here to argue the matter with you. I simply want the fact.

A.—Well, it is impossible for me to state. I suppose that actually half of the time on working days, taking the number of working days I have been upon or about the park ground.

Q.—Do you mean twelve hours per day, or a half of twenty-four hours?

A.—I mean during the working hours. Say five hours per day. It may have been less.

Q.—Have there ever been any days when you have not visited the park there?

A.—Certainly.

Q.—About how many within any one year?

A.—It is impossible for me to state; there may have been along sometimes one or two days a week, at certain seasons of the year, when I was busy in the town office, that I did not go to the park. It has very seldom or never transpired that there has been two days in succession that I wasn't there.

Q.—How many horses do you keep out there now, of your own?

A.—Just at this time, none, sir. There is one horse of mine there that is working for the park.

Q.—Do you get pay for him?

A.—No, sir; I do not.

Q.—Since your salary was raised to four hundred dollars, how many horses have you owned—have you owned that you kept at the park?

A.—There has been this one horse, that is working there, and a portion of the time one horse, and a greater portion of the time—a larger portion of the time—none at all of my own, excepting the one that was working.

Q.—These horses—the one that you have allowed the Park Commissioners to work, and this other one, that was there a portion of the time working for the park—they have been fed out of the city bins, I suppose?

A.—Yes, sir.

Q.—What property have you ever sold the Commissioners?

A.—I sold some surveying instruments.

Q.—Just be kind enough to specify them?

A.—I can't do it. There was an itemized bill I can refer to.

Q.—Well, generally?

A.—Well, there is a transit, a level, and rod.

Q.—Here is a statement that has been furnished by the Secretary of your Board to Mr. Broderick. Be kind enough to look through that and see if it is correct, and then specify?

A.—So far as I can remember, that is right.

Q.—Read the list to the reporter, if you please?

A.—Two fourteen-foot wall tents, and one nine-foot wall tent	\$ 20 00
Translating certain French, German, Danish, Dutch books, letters, and so forth, into English	182 50
Painting and varnishing buggy	20 00
Carriage hire	10 00
One Holby surveyor transit	275 00
One leveling instrument	160 00
One leveling rod	15 00
One twenty-foot measuring rod, with level	22 00
One surveyors' fifty-foot chain	10 00
Two plumb bobs—\$2, and \$1 50	3 50
One walnut desk cabinet	50 00
One walnut desk	35 00
One walnut desk table and back shelf	53 00
One sugar pine drawing cabinet	7 00

Carried forward \$863 00

Brought forward	\$863 00
One long wall map case	3 00
One common pivot chair	7 50
One common arm chair	6 00
Two office chairs, each \$3	6 00
One common pivot stool	3 00
Three pine drawing-boards—\$5, \$3 50, and \$1 50	10 00
Three drawing-boards on horses—one \$2, and two \$1 each.	4 00
Total	\$1,045 50

Q.—When were these things sold?

A.—April thirtieth, eighteen hundred and seventy-four, was, I see, put here. I suppose that is right.

Q.—These wall tents that are mentioned here in this schedule were the old wall tents you spoke of?

A.—They were the wall tents I spoke of, but they were not old.

Q.—They had been in use how long?

A.—They had been in use previous to their going into the use of the Park Commissioners. They had been in use altogether about six months. That is to say, that they had been in the field, set up, about six months. I explained that before.

Q.—These are the same tents?

A.—Yes, sir.

Q.—Has the Commissioners any use for things of this kind?

A.—Use for them, yes. Use for them all.

Q.—I speak of tents?

A.—Yes, sir.

Q.—What use are they able to put them those tents to? What need have they of them?

A.—At this proper time?

Q.—Yes; at this time or in the future?

A.—Well, they had been used. Pitched there, one of them, to shelter the men during the showers, but there is no absolute necessity for that. The men might go a little further and get into a house. Then when there is more work done out there on that sand, which will be required, and would have been done this year had there have been money to have done that, those tents will be taken out there and used.

Q.—Were these tents originally United States tents?

A.—I believe they were.

Q.—Did you buy them from Major Hoyt?

A.—I bought them. I don't know from whom.

Q.—Some quartermaster, was it not?

A.—Yes, sir.

Q.—Were they old or new tents?

A.—They were what were called condemned tents. But a condemned tent in the army is by no means a useless tent.

Q.—Might I inquire what you gave for them?

A.—As well as I remember I gave two hundred dollars for the four tents.

Q.—In currency or coin?

A.—That I don't remember. I can't say, sir.

Q.—What buggy was this you stated here, as having been painted?

A.—I think that was a buggy belonging to the Park Commissioners.

Q.—Do you know.

A.—No, sir; I do not; for the reason, when I first went out there, I had a buggy of my own I used upon the work, and when that buggy was gone I had another buggy; at this time, when that work was done, I am not certain, but I think it was a buggy belonging to the Park Commissioners.

Q.—What carriage hire was this?

A.—I think it was a carriage hire that I got on an occasion when I took the Board of Park Commissioners out. Mr. McDermott—I can't mention the names of the Commissioners that then constituted the Board, but I am positive that was the occasion when the carriage was hired. I paid it myself, and then got them myself to pay it back to me.

Q.—Have you ever presented any other claim for carriage hire to the Board of Commissioners?

A.—No, sir; not that I remember.

Mr. Broderick.—What percentage does this bill hold to the original cost of those articles, do you know?

A.—I believe it to be about ten or fifteen per cent. less than the original cost of the articles.

Q.—In selling those to the Commissioners did you understand you were selling the articles for just what they were worth, or were you including their use in the bill? You say you had used them for some time.

A.—Yes, sir; I understood I was selling them for just what they were worth at that time.

Q.—What I want to get at is, whether they were paying you the value of the articles two or three years previous, or at the time of selling them.

A.—No, sir; I understood they were sold for just what they were worth at the time.

Q.—They can all be seen at the office?

A.—Yes, sir.

Q.—Are those the instruments you showed the other day?

A.—Yes, sir, with the exception of one little tent that is gone. I think it was torn up at the time of threshing up the lupine seed there.

Q.—You say you paid about two hundred dollars for the tents?

A.—Yes, sir.

Q.—And they are rated here at one hundred dollars? I suppose they are generally used up now?

A.—No, sir; they have been repaired, and the tents now are in very good condition.

Q.—The surveying instruments, and everything of that kind can be seen at the office of the Commissioners?

A.—Yes, sir; or at the park.

Mr. Carson.—When were these tents repaired?

A.—The last time, only about two months ago.

Q.—When were they repaired before that time?

A.—They have been repaired somewhat after each season's use.

Q.—At whose expense were they repaired?

A.—At the expense of the park.

Q.—Before the Park Commissioners bought them?

A.—I don't think they were ever repaired before the Park Commissioners bought them.

Q.—Then all the repairs that have been put upon them, you would

have us to understand, have been since the thirtieth of April, eighteen hundred and seventy-four?

A.—I will not be positive about that. They might have been repaired once before that.

Q.—What did you pay for this Holby surveyor transit measure in here?

A.—I don't remember, sir.

Q.—Or for the leveling instrument?

A.—I paid exactly what is there for it—one hundred and sixty dollars.

Q.—For the leveling rod?

A.—I think I paid exactly what is charged there?

Q.—The reason, I will state, for the necessity of going into any details about this matter here is, that the matter contained in this resolution and schedule has been spoken of in the newspapers a great deal. That is the reason I am so particular about it. You can probably inform us before our session is over of the actual cost to yourself—the actual prices you paid for a great number of these things, can you not?

A.—Yes, sir.

Q.—There is another subject that has been mentioned I desire some explanation of on behalf of the committee. Who counts the number of vehicles passing in and out of the park?

A.—The gate-keeper.

Q.—How many men have you employed on that business?

A.—One all the time, and sometimes two.

Q.—What other duties do they perform? I will give you a chance to explain; what other duties do they perform besides that of counting vehicles?

A.—Each gate-keeper has charge of the gate, and opens and shuts it?

Q.—How many gates are there?

A.—There are two gate-keepers, and each gate-keeper has charge of one gate. But then there are other gates that are opened and shut by some assistant keepers on the road. The gate-keeper at the gate this way opens the gate at five o'clock in the morning, and closes it at eight in the evening. He has charge of about a thousand or one thousand two hundred feet of roadway; keeps it clean; keeps it sprinkled during the summer; keeps the edges trimmed; and has general charge of the grounds right around in that neighborhood, and attending to them without leaving his gate. He is required to be on duty—to be there present—about fourteen hours a day, besides sleeping there at night. He is only permitted to go away to his meals and back again; and he has one day of liberty during each month. The counting of vehicles passing through is merely incidental, and not supposed to interfere materially with his duties on the road. The other gate-keeper's duties would be similar; he has not quite as much extent of roadway to attend to.

Q.—Since you have been employed as Superintendent have you had any contract with Mr. Ralston—the late Mr. Ralston?

A.—Yes, sir.

Q.—At what time?

A.—I think it was a year ago last spring; I can't swear to it.

Q.—To do what work?

A.—To lay out a tract of land for him in San Mateo County.

Q.—The town of Burlingame?

A.—Yes, sir.

Q.—Did you do it?

A.—I made the preliminary survey, and made the plans.

Q.—How long did that occupy you, sir?

A.—I had a party there at work about three months, nearly; no, not quite that—two months.

Q.—How much of those two months were you there?

A.—I was down there about once or twice a week. I generally went down there on Sunday, and one day in the week. When I first started the survey I was down there for two days or three days continuously; after that, I was only there for a day or a portion of a day at a time.

Q.—This place, where you were doing this work, is some twenty odd miles away from here, is it not?

A.—Yes, sir.

Q.—Have you spoken to Mr. Enright at all about testifying in this matter?

A.—Yes, sir.

Q.—When?

A.—I suppose I have spoken to Mr. Enright half a dozen times since the resolution was introduced. The last time—it was yesterday morning.

Q.—All these conversations were upon the subject of this investigation?

A.—Yes, sir. Well, sometimes touching on it.

Q.—In all these conversations you referred to the subject-matter of this investigation?

A.—I can't say that in all of them.

Q.—In how many of them?

A.—May be three or four.

Mr. Broderick—You ask for time to look into this matter of monuments out there?

A.—Yes, sir.

Q.—I don't know what the form would be to put it; I am perfectly willing you should have all the time you require, and come back here and testify in regard to it. We may want you to come back and testify to some things we don't understand just now. You have full charge of the accounts and management of the affairs of the park, as executive officer, have you not?

A.—Yes, sir; general charge of the accounts. The park-keeper there has actual charge of the accounts and makes them up. I have consultations with him daily about that.

Q.—You are executive office of the Commissioners out there—you are chief officer at the park?

A.—Yes, sir.

Q.—And all these matters in the shape of pay-rolls, and everything of that kind, is under your supervision?

A.—Yes, sir.

Q.—Do you attest to pay-rolls every month?

A.—No, sir; the park-keeper makes up the pay-rolls, and certifies that they are correct, according to the time-book referred to him—according to the time referred to him by the foreman. The foreman renders time of his gang, and certifies to it as being correct. I always

look over the time books to know who are working there, and about how many men are there. I also look over the pay-roll, and then certify to the vouchers that are made out from the pay-roll.

Q.—What I want to get at is this: Is it or is it not probable that any names could be placed on the pay-rolls, not employes of the park, and draw from the funds of the park without your knowledge?

A.—At this time?

Q.—At any time during your superintendence of the park?

A.—It may have been possible a long time ago. When that work was first started there were some men given credit for days work there that they didn't perform; but that there were never names on the roll of men that were not in the habit of working on the park, I am quite certain.

Q.—You have a system now in regard to that, out there—in a sense, almost a guarantee—that such a thing cannot exist without your knowledge?

A.—Yes, sir. At first it was not so systematized. But I don't believe that there was ever any abuse of that kind.

Q.—Who employed the gardener?

A.—The gardener there was employed by the Park Commissioners at my recommendation. He was recommended to me by Mr. Olmsted, of Central Park, New York.

Q.—This is Mr. Poppie you speak of?

A.—Poppie. However, the Park Commissioners have on their file, I think, the letter of recommendation from Olmsted.

Q.—Are his duties definite out there—distinct enough to prevent any conflict between you and him in regard to beautifying the park, or do you exchange views and act in concert?

A.—We exchange views continually. There is never a day, or hardly an hour of the day I am on the ground, we are not consulting about the work.

Q.—Then his position is not one independent of you?

A.—No, sir; not altogether. Some details of the work I don't bother him about at all. I consider he knows more about it than I do.

Q.—The Commissioners were judges in regard to any matter in which you two parties might not be in accord?

A.—Yes, sir.

Q.—Have you ever had such a question arise between you in regard to planting shrubbery, or beautifying the park?

A.—Never; never anything that has been referred to the Commissioners. There have been differences between us, but we have had argument about it.

Q.—You settled it on the ground?

A.—Settled it on the ground. Never has been the slightest unpleasantness; no, nothing of the kind.

E. L. SULLIVAN SWORN.

Examined by Mr. Carson—Where do you reside?

Answer—San Francisco.

Q.—Are you one of the Park Commissioners?

A.—Yes, sir.

Q.—Since when?

A.—About four years.

Q.—Were you present in the Board when Mr. Hall was appointed?

A.—No, sir.

Q.—You found him there as Superintendent?

A.—Yes, sir.

Q.—What is your idea, as a Park Commissioner, of the extent of Mr. Hall's authority, in superintending purchases, for instance?

A.—We gave him no authority; he has no authority to make any large purchase, or even small one, without consulting the Commissioners.

Q.—How are the Commissioners ordinarily consulted by him?

A.—Well, if it is any very important matter, they request me to call a meeting, and discuss it in the Park Commissioners' rooms, and act upon it. Very frequently it happens, however, he comes to my office and proposes something which he thinks will benefit the park, and asks me to think it over. He does the same with the other Commissioners, and if we find that we agree, that is, if the other Commissioners agree, we tell him to go on and do it. I meet Mr. Alvord and the other Commissioner almost every day at lunch. We lunch at one place, and we talk over the park affairs there quite as much, or more than we do at the office; and if we find that we all agree on any one point, we tell Hall to go on and do.

Q.—Now, sir, with reference to large jobs of grading, cutting, and filling, and so forth. How are those matters ordered?

A.—Well, they were ordered in the way I mentioned. For instance that cut making that road out there: we questioned Mr. Hall about it, he being an engineer I would certainly suppose the other Commissioners would be apt to take his opinion on it rather than our own—that is, if there was any dispute at all. But I remember when that was brought up, that, in order to avoid going over this hill, I, for one (certainly I presume the others), thought that making this cut would be a great future benefit to the road. Afterwards he discovered that he did not get such rock—didn't find such rock as he expected to find—and we temporarily stopped, but with the intention of going on with it, because it makes a much better road to get to the beach than it would be to go around. Generally, in those things, we naturally would take the opinion of an engineer, not being engineers ourselves.

Q.—Well, about the location of roads in places where a large amount of grading or cutting has to be done, has Mr. Hall explained to you that a road could be built in that neighborhood at less expense; has he ever done that?

A.—Well, in this instance that I have just mentioned, it was less expense to put the road over the hill than it would be to go through this cutting. The only other place where I remember any deep cutting, that was through sand, under a very great expense. I don't remember whether that was done before I got into the Board.

Q.—Well, I will speak to you, for instance, of that place here [showing], at the junction of the southern drive with Second Avenue, as extended?

A.—That is the one I had in my mind.

Q.—Well, with reference to that, for instance?

A.—That is the one. I was thinking whether that was not agreed upon before I came into the Board. It was done, I think, immediately after I came in the Board. I have no remembrance of any consultation with him on that point at all.

Q.—It was left entirely in his hands?

A.—Yes, sir; I think it was agreed upon before I came into the Board. That is not the first improvement made on it.

Q.—How about the appointment of Superintendent and officers; how has that been managed?

A.—Well, of course, generally they are appointed on Hall's recommendation.

Q.—I don't refer to the laboring men, or such as that. They have to be employed in a hurry.

A.—There is one policeman appointed at my request. I think there is one appointed at Mr. Alvord's request.

Q.—How many police officers have you got?

A.—Well, I think there are two. There are men who do the duties of policemen, but also do other duties; but we have some regular policemen. I think we must have about six; I don't remember now.

Q.—One appointed at your request, and one at Mr. Alvord's request?

A.—I believe so.

Q.—Would you infer from that Mr. Hall had the naming of all the others?

A.—So far as I remember, he may have recommended them. I don't remember who did recommend them now, excepting I remember only these two. I remember now, two that I recommended. Mr. Hall being so directly responsible, I felt, as a Commissioner, I would always take his recommendation, and give it great weight. At least, not always take it for granted, but give it great weight.

Q.—Leaving the matter of appointees, I will ask you if you have read through the section of the Act of eighteen hundred and seventy-two, amending the original park Act?

A.—I presume I have read it, although I don't know exactly what it is now.

Q.—It is with reference to the expenditure of moneys on the streets?

A.—I know what it is—yes, sir.

Q.—Now, has your Board of Commissioners authorized the improvements that have been put upon certain streets in the neighborhood of the park?

A.—In two instances they have.

Q.—What were they?

A.—The first one was on streets, I think from Devisadero street, or just beyond there, on the present approach to the park. The avenue was in very bad condition—that was the reason that was put in the law, so we could get through the park. That if the property owners grade the street we would pay half the expense. That is, we had the right to pay half the expense.

Q.—I will read the section so we will understand what we are doing, section three, [reads]. I find in your report certain moneys expended for street account; that, I presume, means under this section?

A.—Yes, sir.

Q.—Can you designate the streets that have been selected by the Commissioners to be graded under this Act—graded and improved?

A.—No, I cannot.

Q.—Can you on this map?

A.—I can tell about where they are. It must have been these streets coming in the park, or very near, [showing], and the other I

think is First Avenue. These particular streets, I don't remember which ones they were now.

Q.—In designating these streets, in doing this work, did the property owners, before the work was done, unite with the Commissioners and place in the Park Improvement Fund an amount equal to that which you expended, or proposed to expend?

A.—They did in this instance.

Q.—In the report of the receipts and disbursements from the organization of the Board from May, eighteen hundred and seventy, to November, eighteen hundred and seventy-five, I find disbursed for the street account, eight thousand nine hundred and seventy-three dollars and seventeen cents; I find receipts, under the head of receipts in streets account, two thousand nine hundred and two dollars and eighty-six cents; will you account for that, if you please, under this third section of that Act?

A.—There are only two instances of our helping streets. In the first case, how much we paid them I don't remember now; it will appear by the books; the property holders paid over some money, and some of them could not pay. But the contractor gave us a guarantee it should not be brought against the Park Commissioners. I have forgotten the circumstance particularly, but that was the amount of it, and they paid in a certain amount to the Park Fund. I think we had agreed to give them one-half of the cost; one-half of the cost was paid in.

Q.—The law demanded that the property owners should pay to you one-half of the cost?

A.—Exactly, the same thing was our result—in the same thing. If they agreed to pay one-half of the costs, and they paid that half, they paid into the Park Fund their half, excepting there was some who could not pay their proportion, but the contractor undertook not to hold us responsible, and he, I presume, settled with them afterwards. We didn't pay certainly more than what we agreed to, whatever it was.

Q.—Were both those streets done under one contract?

A.—I don't remember whether they were or not.

Q.—Do you remember the name of the contractor?

A.—I think it must have been Kenny.

Q.—Was it a written contract?

A.—I think it must have been. It is so long ago that I only have a positive remembrance that we didn't pay more than half of what the thing cost. In the other case the grading wasn't done exactly according to law. The grading cost, as we understood, somewhere about twenty thousand dollars, and the Park Commissioners agreed to help them; that is, in the First Avenue case, agreed to help them to the extent of two thousand five hundred dollars, when it was actually done and finished, which we did.

Q.—Then this amount of eight thousand nine hundred and seventy-three dollars and seventeen cents being the total of your disbursement for that account—

A.—Take two thousand five hundred dollars from that, for the First Avenue, the balance will show what was done at the first contract, at the entrance of the park.

Q.—That would leave, roughly, six thousand five hundred dollars. Then are we to understand that the whole amount of that contract, for grading these streets down here, shows ———, in round numbers?

A.—That is my recollection; that is, we agreed to give one-half the cost. I have never refreshed my memory on the subject at all; but I am very positive that was the agreement. We should give them one-half the cost of grading, or pay one-half.

Q.—Did you hear Mr. Hall's testimony, with reference to certain gum trees he had purchased recently?

A.—Yes, sir.

Q.—Did you know anything about that purchase?

A.—Yes, sir.

Q.—What did you know of it?

A.—He told me that we hadn't enough in the nursery, and this was a good season for plants. He could get a certain number, about ten thousand, at a moderate rate, and asked to be allowed to purchase them, and I told him to go on and do it.

Q.—Did he report to you what the rate was before he made the purchase?

A.—Yes, sir.

Q.—You were content with it?

A.—I was content, although I confess I didn't inquire into the market. He said it was low.

Q.—Had the Commissioners ever purchased any gum trees before?

A.—I think not.

Q.—Now, about this water question? I would be glad to understand from you what arrangement the Park Commissioners have now for supplying the park with water.

A.—Our first attempt at water was to dig this well. It did not give all the water we expected. In making our arrangement with the Spring Valley Water Company, I am satisfied we got the contract much lower from the fact of having this well. We got better terms than we could have obtained if we hadn't this well and pump.

Q.—We understood from Mr. Hall you made a contract with the Spring Valley Water Company for nothing less than one hundred thousand gallons of water per day, for four hundred dollars a month.

A.—Yes, sir.

Q.—You paid two payments?

A.—Yes, sir; that is correct. May be three. I think only two.

Q.—Now, what arrangement has been in force since those two payments were made? How long ago were those two payments made?

A.—It must be two years.

Q.—What have you paid for water since that time?

A.—We have not paid anything.

Q.—How do you expect the water company shall be paid, if at all?

A.—That, I don't know. This arrangement, after considerable negotiations, I agreed with them upon these terms of four hundred dollars a month, the lowest I could get, no matter whether we took fifty thousand gallons or ten. I thought if that was the lowest they would give it to us, we might as well have the privilege of taking the larger quantity. After paying them two months, there arose some questions in which Mr. Swift was counsel for the city; and he, knowing of this contract, told me that he thought we should not pay any further bills. Mr. Ashbury also informed me he would not audit any more bills; upon which I went to Mr. Babcock, President of the Spring Valley, and told him, as we had made this contract, we might be personally responsible for it, for aught I knew, but we

could not pay him any more money, but we would do this: If the water company chose to shut off their water we could still get along there with our pump and well, if they would give us two weeks' notice. Since that they have gone right along. Sent in their bills, and never given us any notice.

Q.—You have paid nothing for two years?

A.—No, sir.

Q.—Was that a written contract with the water company?

A.—Yes, sir; it was for one year. At the end of that year they sent in their bills for five hundred dollars without notice.

Q.—Five hundred dollars per month?

A.—Yes, sir; that was a hundred dollars a month more than the original contract.

Mr. Sullivan—Are you interested in the Spring Valley Water Company?

A.—No, sir.

Q.—How much time did you devote each day to looking after the affairs of the park, and superintending the park?

A.—Well, I used to go out—in fact, generally intended to go out every day. As a pretty general rule, I go out every day, unless some circumstance prevents—when I was away, or storms, or something of that kind. But I have given a good deal of attention to it.

Q.—Did you inquire of the gardener there, the chief gardener, if everything had been conducted as it should be?

A.—No, sir; I generally avoided that.

Q.—Left it in the hands of the Superintendent?

A.—I left it in the hands of the Superintendent. When I could see anything wrong, or any reports were brought to me, then I made inquiries.

Q.—So you relied entirely on his account?

A.—Not entirely, sir; but still to a great extent I relied on the Superintendent, I think very justly.

Q.—Did he have a landscape gardener there? Could not the landscape gardener throw some light on the subject?

A.—It seems to me if there had been any dispute between the gardener and myself—if there ever had been I don't remember when—the gardener ought to report to the Commissioners.

Mr. Broderick—I have been requested by a gentleman present, I don't know his name, to ask you a question: Was the reclamation of the sand dunes on the south of the park, under a private contract, in the interest of the park?

A.—I think it was, sir; so much so that the Commissioners exerted themselves individually to get the owners of the property there to consent to make the contract, knowing that it would save a good deal of expense to the Park Commissioners, protecting that south side.

Q.—Mr. Hall has testified to the extent of the protection, I think, some two miles. Do you, in your judgment, think that has the effect, that it does protect it?

A.—Unquestionably; I also tried to get the people on the south side of the park to go into the same contract, but I could not get them to do it; then we should have been perfectly protected from all sand drifts on the park.

Q.—Now, Mr. Sullivan, is there a contract between yourself and Mr. Hall, the engineer; is there a written contract as to the character of the services he shall render the Park Commissioners, or is it verbal?

A.—I don't think it is a written contract. It is on the books, and the amount of salary he has to receive.

Q.—Is it simply an appointment, to be changed at any time?

A.—We can change the appointment at any time.

Q.—Then he performed his duties as you laid out, under any rules or regulations you wished to prescribe?

A.—Yes, sir.

Q.—Do you feel you are entitled to his entire attention to it?

A.—Since his salary was raised; yes, sir.

Q.—In case he should be offered a private contract, would you feel that he would be doing you an injustice, and the city an injustice, to undertake that private contract, without getting your consent?

A.—He would not, be doing it without getting our consent. I was here when he mentioned having done something for Ralston. I know he asked about that.

Q.—If he should have gone on with this contract, or any other contract, without consulting you as to leave to do so, would he not be doing the Park Commissioners an injustice?

A.—I certainly think he sent up dispatches.

Q.—You don't know of his having any private contracts and doing his services at four hundred dollars a month, without your consent?

A.—No, sir; I do not.

Mr. Sullivan—Are you interested in the private land out there, joining that park?

A.—One piece; I think corner of Stanyan, and maybe Waller—one small piece—and in a portion of a block bounding the avenue which is sold. I don't remember exactly. I know after the park was laid out, and before I was Commissioner.

W. S. FITCH sworn:

Mr. Sullivan—I want Mr. Fitch to give us a description of the avenue—about how much grading and macadamizing there is on that avenue, and the length of the roads over the park?

Answer—Well, it strikes me that lays out the whole question for me. I can give you my ideas of the cost of the work; give you my judgment about it.

Q.—Your ideas, you say?

A.—Yes, sir; I said I could give my ideas about the cost of building the avenue.

Mr. Carson—What is your business?

A.—I have unfortunately been constructing roads for the past four—ten years.

Q.—You claim, then, to be acquainted with the value of such work?

A.—To a certain extent I am acquainted with the value; yes, sir.

Q.—What roads, if any, have you built?

A.—The Mission and Ocean roads.

Q.—Any another roads?

A.—No, sir.

Q.—You have been an owner in that all that time?

A.—Yes, sir.

Q.—Keeping it constantly in repair?

A.—Yes, sir.

Q.—That is what is commonly denominated a toll-road, that the trouble was about here a short time ago?

A.—Yes, sir; the same one.

Q.—Did you do the work yourself, or did you contract it out to others to be done?

A.—A great deal has been contract, and a great deal been done by myself.

Q.—What I want to get at is this. We have but a very short time to make an investigation. We want to do the citizens justice, and, also, the Park Commissioners justice. We want to be just in this investigation. I want to ascertain in regard to your qualifications, or, in other words, whether you are an expert on this subject, if you think you are.

A.—Well, sir; I think I am to that extent. I built that road. Maintained it. A great deal of work has been done by contract, and a great deal done by myself.

Mr. Sullivan—Please give us a general description of your knowledge of the park, and the roads of the park?

A.—Well, I could give a description of my road and how it compared with the park.

Q.—Have you not been through the park recently?

A.—Yes, sir.

Q.—You take a Roadmaster out there and measure the roads?

A.—No, sir. Two or three months ago I measured the main avenues on the road with a wheel. I think it was along some time in the month of October. That is the only measuring. The lineal foot, the length of the avenue of the drives, I recollect the measurement is, I think, about six miles and a half of avenues of drives. The width of them I didn't measure at all.

Q.—About how much a yard do you think it would cost to macadamize those roads there?

A.—It would be a very difficult question to answer. The actual cost you mean; take into consideration the cost of grading, the condition of rock, the distance to haul, and the thickness you put it on, and the width of your avenue. The cost of putting rock on my road—

[*Mr. Broderick* here objects that he don't think the witness has sufficient knowledge of the subject to testify. That he could only compare the work with work on his road, and that the construction on the two works was entirely different.]

The Witness—That is, the only information that I could really give, would be comparing between the two. The park—I never went into the interior working of it at all, or had any experience.

Mr. Broderick—This work on the side hill, the ground is taken from the side of the hill, to make the road as you went along. This other road—there were places filled up and places cut down. The comparison, in my judgment, will not be any information to the committee. There is another question which has been called to my attention, and that is, that this work on the avenue was done by public contract, not done by the Commissioners, but done by public contract. Therefore, there is no necessity for comparison.

J. T. FLEMING recalled, examined:

By Mr Carson—Are you now prepared to furnish us with a list of the officers of the Park Commission?

Answer—Yes, sir.

Q.—I will ask you to furnish me with a pay-roll, which will be here soon. Have you your ledger and cash book?

A.—Yes, sir. I would like to correct something in my testimony this morning. I was elected Secretary of the Board in June, eighteen hundred and seventy-two, instead of June, eighteen hundred and seventy-one.

Q.—Who was your predecessor?

A.—A. J. Moulder. He was Secretary from the organization of the Board up to that date.

Q.—Will you turn to your street account?

A.—Yes, sir.

Q.—Will you inform the committee, if you please, how you arrive at the sum total of eight thousand nine hundred and seventy-three dollars and seventeen cents. From what source was that received?

A.—One entry under the head of February twenty-eighth, eighteen hundred and seventy-three, paid B. Kenny proportion due by the Park Commission three thousand five hundred and thirty-seven dollars and ten cents. Bill receipted. Being a payment in full of all demands in the contract to grade and macadamize Oak and Baker streets. Said payment being authorized under an Act of the Legislature of the State of California, passed March thirtieth, eighteen hundred and seventy-two. Dated, July third, eighteen hundred and seventy-two. Total, six thousand four hundred and sixty-three dollars and seventeen cents. Under the head of April thirtieth, eighteen hundred and seventy-three, paid M. H. Farrell proportion due by Park Commissioners, for grading and macadamizing First Avenue from Point Lobos Avenue, etc., two thousand five hundred dollars. Total paid out on account of the Street Fund, eight thousand one hundred and seventy-three dollars and seventeen cents. Under date of March thirty-first, eighteen hundred and seventy-three, cash Street Fund, by amount collected from Paul Rousset, being his proportion under the amendatory Act, approved March thirtieth, eighteen hundred and seventy-three, and deposited with the City and County Treasurer of San Francisco, to the credit of the Park Improvement Fund, as per receipt on file, two thousand nine hundred and two dollars and eighty-six cents.

Q.—I will ask you if you know personally anything about the street improvement business of the Commissioners, under the operation of this third section of the amendatory law you have referred to in all your entries?

A.—I think, at a meeting of the Board, I was instructed to collect a proportion from the property owners.

Q.—Which proportion?

A.—The proportion due to pay into the Street Improvement Fund.

Q.—What was that proportion you were instructed to collect?

A.—I was instructed to collect two thousand nine hundred and two dollars and eighty-six cents.

Q.—Can you turn to the resolution instructing you to do so?

A.—Under date of February tenth, eighteen hundred and seventy-three, on motion, the Secretary was instructed to draw, on demand, for B. Kenny, the sum of six thousand four hundred and seventy-three dollars and seventeen cents—being proportion due by the Park Commissioners of three thousand five hundred and seven dollars and thirty-one cents; Paul Rousset, two thousand nine hundred and two dollars and eighty-six cents; and having accepted

the note of W. Phelps, six hundred and sixty-seven dollars and forty-five cents, for his proportion. [Reads resolution.]

Q.—Your resolution don't specify the proportion to be drawn from the Street Fund, or amount for which Mr. Phelps' note was given.

A.—No, sir, it is not specified. I received a receipt from Mr. Kenny for the sum of six thousand four hundred and seventy-three dollars and seventy-three cents. Here is another resolution with regard to a matter of two thousand five hundred dollars.

Q.—That is with reference to drawing an order for that purpose?

A.—Yes, sir.

Q.—Will you be kind enough to tell the committee what your usual course is with reference to purchases for account of the park?

A.—I make very few purchases.

Q.—What purchases do you make?

A.—I make purchases of stationery and such things as I want. I usually report to the President what I wish—sometimes by a resolution, sometimes verbally, if I want a pen or box of pens.

Q.—All necessary office material. Are your purchases limited to that class of articles?

A.—Yes, sir.

Q.—With reference to materials required by the park?

A.—I have nothing to do with that.

Q.—Who makes those purchases?

A.—Sometimes the Commissioners, when they have large purchases to make.

Q.—Did they make the purchases personally, or merely authorize them to be made?

A.—Sometimes personally, and authorize the Superintendent.

Q.—When the Superintendent purchases, how are those purchases brought to your knowledge as Secretary?

A.—The Superintendent purchases, the goods are sent out to the park with a bill, and a bill is sent to the park office, stating the amount and price paid.

Q.—Is that bill certified by the Superintendent usually?

A.—Those bills are all brought up.

Q.—Is the bill sent in to you from the park certified as correct by the Superintendent?

A.—Certified by the park-keeper generally, who receives them.

Q.—Who is the park-keeper?

A.—W. P. Pritchard.

Q.—He certifies all bills that he sends to the office as correct?

A.—He makes a report saying he receives so much, and certifies that the bills are correct.

Q.—How are the bills ordered paid then?

A.—After the bills are brought to the office signed by the Commissioners, they are made out in a voucher certified to by Mr. Hall, if true, and then brought before the Commissioners. A majority sign them, and I sign the date they are allowed, then they are brought up to the Auditor. He enters them in his book and signs as being correct. I take them back to the office and enter them in the book of records of demands, and the order in which they appear, and time audited, and audited allowed. After that they are given to the Superintendent, who delivers them to the men out there. Each man collects his voucher from the City and County Treasurer, and signs

his name in a book. I deliver the merchants' bills myself; carry them around and deliver them to the various places.

Q.—You deliver the vouchers for the bills?

A.—Yes, sir.

Q.—To the various persons from whom goods have been purchased?

A.—Yes, sir.

Q.—Are any bills paid until audited by the Commissioners?

A.—Never.

Q.—Have you ever had in your possession any blank voucher signed by the Commissioners?

A.—No; excepting on one occasion I have had when Mr. Sullivan was going away for a short time. I have had a few vouchers signed by him alone, not by a majority of the Commissioners. After they were filled out they were signed by the rest of the Commissioners. But a man cannot be paid unless they are audited.

Q.—The majority of the Commissioners had not signed?

A.—Never signed. I never had any blank vouchers signed by a majority of the Commissioners.

Q.—And that is the course followed in every instance?

A.—Every instance; even for one cent.

Q.—In this printed report, showing the Park Commissioners' receipts and disbursements from the organization of the Board until the thirtieth of June, eighteen hundred and seventy-five, I presume that is your report?

A.—Yes, sir.

Q.—I find an item for surveying and engineering, sixteen thousand one hundred and sixty-five dollars, up to June thirtieth, eighteen hundred and seventy-four; I find surveying and engineering fifteen thousand eight hundred and sixty-five dollars. Difference, three hundred dollars, I believe. Can you explain what that surveying and engineering was for during the fiscal year ending June thirtieth, eighteen hundred and seventy-five?

A.—There appears here an item of three hundred dollars, expended for surveying and engineering. It would be necessary for me to go back to explain this item paid W. H. Hall, Superintendent and Engineer, for the month of June, three hundred dollars. What Mr. Hall was first awarded to make a topographical survey of the park is included in the surveying and engineering.

Q.—That was the original amount of fifteen thousand eight hundred and seventy-five dollars?

A.—Yes, sir; after he was appointed Engineer, I was not Secretary at that time, Mr. Moulder continued his salary in the surveying and engineering account. This year I was directed to discontinue that account and place it in the salary account, which I have done, and the only items paid for surveying and engineering now, is what was paid to Mr. Humphreys, who was employed once to make some surveys out there.

Q.—I want an explanation for that three hundred dollars.

A.—That is salary for the month of June; Mr. Hall's salary.

Q.—June, what year?

A.—June, eighteen hundred and seventy-four.

Q.—That, then, was simply following out the manner in which the account had formerly been kept before, where it was really salary which had been charged for surveying and engineering account?

A.—Yes, sir; by the former Secretary.

Q.—Then the mode of keeping that account was changed?

A.—Yes, sir; changed to the salary account.

Q.—You mentioned, a moment ago, about some surveying having been done by Mr. Humphreys?

A.—Yes, sir.

Q.—State what it was, and when.

A.—Under date of March thirty-first, eighteen hundred and seventy-four, paid Wm. P. Humphreys, for surveying park boundary, one hundred and thirty-eight dollars and fifty cents.

Q.—Is that the only item?

A.—That is the only item charged to that account. They had a surveyor employed during the month of February, eighteen hundred and seventy-four, and paid seventy-eight dollars and fifty cents. He was a surveyor employed, I believe, to survey Buena Vista Park.

Q.—You say you believe—do you know it?

A.—Yes, sir.

Q.—Was it a special contract with him?

A.—No, sir.

Q.—Who employed him?

A.—He was employed by Mr. Hall, under instructions of the Commissioners.

Q.—Are there any other items of that character?

A.—No, sir.

Mr. Sullivan—How old did you say you were?

A.—Twenty-three last November.

Q.—How long have you been employed by the Park Commissioners?

A.—Since June eighteenth, eighteen hundred and seventy-two.

Q.—You were about nineteen years old when employed by the Park Commissioners. Did Mr. Hall request you to do any private work for him—perform any writing for him at any time while employed in the office there?

A.—No, sir.

Q.—Didn't you say so to any person on the outside?

A.—No, sir.

Q.—You did not state that to any one?

A.—No, sir.

Q.—You are sure you did not go to Mr. Sullivan and complain of Mr. Hall requiring you to write up some extra work for him?

A.—No, sir.

Q.—You did not state that to a young man named Hanly, here—a lawyer?

A.—I don't know him.

[Recess until half-past seven.]

EVENING SESSION.

The committee met pursuant to adjournment. Present, a full committee.

The Secretary of the Park Commissioners, Mr. Fleming, produces certain papers in relation to the contract of B. Kenny, with the Commissioners.

J. T. FLEMING recalled:

Mr. Carson—This paper, Mr. Secretary, which you have presented to me, is the receipt of B. Kenny, for six thousand four hundred

and seventy-three dollars and seventeen cents, in full of all demands against the Park Commissioners, under a contract to grade and macadamize Oak and Baker streets, dated July third, eighteen hundred and seventy-two. Turn to your journal ledger, and inform us how much money was paid, and at what date it was paid to Mr. Kenny, for which he receipts here?

A.—On the date, February twenty-eighth, eighteen hundred and seventy-three: "Paid by cash, the proportion due from Park Commissioners, three thousand five hundred and seventy dollars and thirty-one cents, and Paul Rousset's proportion, two thousand nine hundred and two dollars and eighty-six cents, being in full of all demands under contract to grade and macadamize Oak and Baker streets, dated July third, eighteen hundred and seventy-two, said payment being authorized by an Act of the Legislature of the State of California, passed March thirty-first, eighteen hundred and seventy-two." Total, six thousand four hundred and seventy-three dollars and seventeen cents.

Q.—How do you account for the Park Commissioners paying Mr. Rousset's proportion?

A.—He paid into this fund, to my hands, and took a receipt from the city and county treasury where I deposited, for the sum of two thousand nine hundred and two dollars and eighty-six cents.

Q.—This receipt gives the contract price to be eight thousand three hundred and fifty dollars, of which one thousand two hundred and nine dollars and thirty-eight cents was to be paid from the City Street Fund; three thousand five hundred and seventy dollars and thirty-one cents to be paid from the Park Improvement Fund; two thousand nine hundred and two dollars and eighty-six cents to be paid by Paul Rousset; six hundred and sixty-seven dollars and forty-five cents was to be paid by W. H. Phelps. How are we to find this payment of three thousand five hundred and seventy dollars and thirty-one cents, and a receipt for six thousand four hundred and seventy-three dollars and seventeen cents?

A.—Because we paid him—that total six thousand four hundred and seventy-three dollars and seventeen cents, includes Mr. Rousset's proportion, and the Park Commissioners' proportion. Mr. Rousset paid in this for work, and we gave him (Kenny) a voucher for Rousset's proportion and our proportion on the city and county treasury. The others secured the city. We took a note for the security of the Park Commissioners from the city. I have a receipt on the part of Mr. Rousset. That six thousand four hundred and seventy-three dollars and seventeen cents includes the Commissioners' portion and Rousset's portion; the other portion—the other, the contractor undertook to secure himself, securing us from the city.

Mr. Broderick—I suppose you can prove by this receipt you had paid it to him?

A.—Yes, sir.

Q.—That is a proof he received from the Commissioners; if he did not get that from those individuals you would be secured?

A.—That was the intention of the Commissioners. He secured us from the city.

Mr. Carson—If I understand rightly, to meet this expenditure by the Commissioners of three thousand five hundred and seventy dollars and thirty-one cents, you have received from property owners, in

cash, into the Park Improvement Fund, two thousand nine hundred and two dollars and eighty-six cents?

A.—I do not understand it that way. I understand that this was the proportion that the Park Commissioners were to pay: three thousand five hundred and seventy dollars and thirty-one cents. This was Rousset's proportion: two thousand nine hundred and two dollars and eighty-six cents, which he had paid, and I deposited it in the treasury. This we paid. The other amounts to come in—he was to collect those other amounts himself.

Q.—The third section of the law says, you remember, that "an equal amount to that proposed to be expended by the Commissioners must, before the work be begun, be deposited in the Park Improvement Fund." Now, I ask you, that to equal this expenditure of three thousand five hundred and seventy dollars and thirty-one cents by the Commissioners, of the public moneys, there was deposited in the Park Improvement Fund two thousand nine hundred and two dollars and eighty-six cents by Mr. Rousset, a property owner?

A.—Yes, sir.

Q.—Well, now, what of the balance?

A.—That was to be collected by the contractors. They had secured us.

Mr. Broderick—Those items amount to a great deal more than the Park Commissioners paid; those make four thousand seven hundred and sixty-nine dollars and sixty-nine cents?

A.—We, for all, paid three thousand five hundred and seventy dollars and thirty-one cents.

Mr. Carson—We have, then, admitting this matter to stand in that position that you have just stated, we still find that there is an amount of six thousand and seventy dollars and thirty-one cents expended by the Park Commissioners, according to this statement here?

A.—Yes, sir. We find on the side of the receipts, two thousand nine hundred and two dollars and eighty-six cents.

Q.—In addition to that, we have this other amount of six thousand and seventy dollars and thirty-one cents, where have we the equal amount contributed by the property owners?

A.—There was paid on another contract on First Avenue to an amount—to M. H. Turrill, two thousand five hundred dollars.

Q.—By whom?

A.—By the Park Commissioners.

Q.—Was there anything else paid?

A.—That is all on the Street Fund, sir.

Q.—I accept this street account, eight thousand nine hundred and seventy-three dollars and seventeen cents, as being correct. Now if that be correct, and deducting and making allowance for these payments here [showing the books], there still remains an amount of six thousand and seventy dollars and thirty-one cents paid here, for which no equal amount has been paid into the Park Improvement Fund by the property owners. That is what I want to get at?

A.—The Park Commission expended eight thousand nine hundred and seventy-three dollars and seventeen cents, on account of street work outside, and they received two thousand nine hundred and two dollars and eighty-six cents.

Q.—That is the amount Rousset paid?

A.—That is the only amount paid by the property owners.

Q.—That is all the books show?

A.—That is all the books show; yes, sir. The Park Commissioners by agreement, paid two thousand five hundred dollars on First Avenue, from Point Lobos Avenue to the park.

Q.—A public street?

A.—That is a public street. They (the property owners) must have paid an equal amount. We only paid two thousand five hundred dollars.

Q.—We have no contract for that?

A.—No, sir; it was by agreement of the Park Commissioners.

Mr. Broderick—You do not know anything about it, if it was made?

A.—It was before my time, sir.

Mr. Carson—Mr. Fleming, you have in your possession the books of the Park Commission from the organization?

A.—Yes, sir.

Q.—Can you state now from those books whether any moneys have been received by the Park Commissioners for account of wood sold from the park?

A.—I do not find any entry in the books for wood.

Q.—Have you looked in the books for that purpose?

A.—Well, I have looked over the journal and find no entries.

Q.—Since the examination to-day?

A.—Yes, sir.

Q.—And you found no entry to that effect?

A.—No, sir.

[After discussion the Secretary produces a paper.]

Mr. Carson—Mr. Fleming is this the pay-roll of the employes of the Park Commission for the month of December, eighteen hundred and seventy-five?

A.—Yes, sir; with the exception of the salary of the Secretary and Superintendent.

Q.—Why are they not on this pay-roll?

A.—Because the park-keeper is not supposed to keep them; the Park Commissioners sign the Secretary's and the Superintendent's voucher.

Q.—[Reading]—One carpenter, at three dollars a day; chainmen, two dollars and twenty-five cents per day?

A.—There is James Worth, flagman, two dollars per day; two carts, two horses and driver, at five dollars and fifty cents per day; those are men employed by the day. These [showing] are monthly men.

Q.—The foreman teamster at ninety dollars a month, and hostler—

A.—[Interrupting]—At sixty dollars.

Mr. Carson.—Four teamsters, at fifty-five dollars each; four drivers, at fifty-five dollars each; a park-keeper, at one hundred and twenty-five dollars; a sergeant of guard, at ninety-five dollars; three assistant keepers, one at eighty-five dollars and two at eighty dollars per month; a stable watchman, at eighty dollars per month; a night watchman, at eighty dollars per month; two gate-keepers, at sixty dollars per month each; sergeant of police, at seventy dollars; four police laborers, one at sixty dollars, and three at fifty-five dollars each; head gardener, one hundred and twenty-five dollars; nurseryman, at sixty dollars; gardener, at sixty dollars; gardener's assistant,

at fifty dollars; foreman gardener, at sixty dollars; two gardeners, at fifty-five dollars each?

The Witness—There is the certificate of the keeper.

Q.—This is the force of the park?

A.—Yes, sir; for last month.

The Chairman—Will you produce the pay-roll for August?

[The Secretary produces the roll for August, eighteen hundred and seventy-five.]

A.—There was a short roll for August.

Q.—What is that? [Showing.]

A.—He had a team. A team and driver, and two horses, twenty-six days, one hundred and forty-three dollars.

Q.—Carpenters, two at four dollars and fifty cents a day each; laborers, how many?

A.—Let me see. There is only four for that month, at two dollars a day.

Mr. Hall—There was only four by the day, but more by the month.

A.—One of those carpenters received five dollars, the other three dollars.

Q.—There is a chainman, fifty-five dollars a month; flagmen, fifty-five dollars; carpenter, seventy dollars; park-keeper, one hundred and twenty-five dollars; sergeant of guard, seventy-five dollars; assistant keeper, eighty-five dollars; stable watch, eighty dollars; three assistant keepers, seventy-five dollars, eighty-five dollars, and eighty dollars; two keepers at sixty dollars; sergeant of police—

A.—[Interrupting]—At ninety dollars—no, he has seventy dollars, instead of ninety dollars—and there is four police, one at sixty dollars, and three at fifty-five dollars; head gardener, one hundred and twenty-five dollars; nurseryman, at sixty dollars; gardener, sixty dollars; gardener's assistant, fifty dollars; foreman teamster, sixty dollars; six watermen, four at fifty-five dollars, and two at fifty dollars; foreman teamster, sixty dollars, a hostler, at sixty dollars; and one teamster, at sixty dollars; and three teamsters, at fifty-five dollars; and drivers, at fifty-five dollars.

The Chairman—That includes the whole pay-roll for August, eighteen hundred and seventy-five?

W. H. HALL recalled:

Mr. Carson—Can you give us a statement of how much money was expended for the chopping of wood?

A.—All the papers and books are locked up in the vault of the Bank of San Francisco, and I cannot get them out to-night.

Q.—Your papers?

A.—They are not mine; but papers I have kept as engineer, out there; reports of my assistant, and so on; books from which vouchers have been made out. They were out at the park for a time and now I have taken them down and put them in this vault.

Q.—Where are these reports we have heard so much about; where are they kept?

A.—The reports of the assistant are there; they have been kept at the park; while I was in this office—that is, while I was down here most of the time, or a good portion of the time, as I was once—they were kept here; but since I have had no assistant, and been almost continually at the park, I have had them locked up. They are not reports made directly to the Park Commissioners.

Q.—Official reports to you as Superintendent, upon which you based the pay-rolls that are certified by you?

A.—No, sir; these reports have nothing to do with the pay-roll; they are official reports of the park-keeper and of the assistant engineer to me about the several works that were going on.

Q.—Where are the reports that have been made to you of the time of the men employed upon the different works?

A.—Those are contained in the time-books; and all the time-books, I think, I can produce from the first.

On motion of Mr. Carson, the committee adjourned to meet to-morrow morning at ten o'clock, in the rooms of the Board of Supervisors.

SAN FRANCISCO, January 16th, 1876.

Present—Hon. D. C. Sullivan (Chairman), Carson, Broderick, and Barber. Mr. Raisch came in shortly after the calling of the roll.

On motion, Andrew J. Marsh was sworn as shorthand reporter pro tem. of the committee.

Mr. Carson—I understand from Mr. Hall, this morning, that he desires to make some explanation and correction of his testimony on yesterday. Before proceeding further, I propose to allow him an opportunity to do so.

WM. H. HALL recalled and testified as follows:

The Witness—I asked yesterday before leaving the room, directly after giving my testimony, to be allowed to correct two points in it; one, about the wood that was chopped on the park, and the other, about the monuments. I wish to correct that statement about the monuments that were taken away, and I wish also to correct the statement about the wood at the present time. I should like to have a little further time in regard to the monuments, because I want to go out to the park and examine in regard to that matter, as I stated yesterday.

Mr. Carson—Very well, explain about the wood.

A.—There were about thirty-five to forty cords of wood chopped there and put up by day labor—I mean by the cord; not day labor, but by the cord. I have not had an opportunity of looking through the books very carefully about this, but I think I will come to it pretty closely. Then there was enough more chopped by day occasionally. This that was chopped by the cord was done cheap, when we were working ahead, and there were several men chopping at the same time; occasionally, after that, wood was chopped by day labor, making a total amount that was chopped sixty to sixty-five—certainly not over seventy cords at that time; that is, when there was a lot of wood on the ground. Since that time, there has been a little wood chopped—as we would chop up a stump occasionally; on getting a stump out it will be chopped up, which amounts to a very small thing. Of that sixty-five or seventy cords that were chopped in the first place, most of it was on hand there. At one time I was authorized by the Commissioners to advertise and sell it; I did so. I think I advertised “fifty cords for sale.” There were no bids received, and I reported the fact that no bids had been received to the Commissioners. After that time there were frequent applications made there,

by parties in the neighborhood, to buy that wood; I steadily refused to sell it. I remember on one occasion, however, of telling John Doyle that he might have some of that wood, when it was sold, at the rate it was sold at. That I ever gave an order for that wood, or for any portion of it, or received any money from the sale of it, I distinctly deny [speaking emphatically]. I have heard, since my testimony was given yesterday, that there was some wood sold there.

Q.—By whom?

A.—That will come out when you cross-question another witness; or, I will state it now.

Q.—State it now.

A.—Well, sir; there was some sold there by my assistant, Mr. Enright, at that time.

Q.—Louis Enright?

A.—Yes, sir. I think that I knew nothing of it at the time.

Mr. Broderick—Mr. Enright did not give you any money on account of the wood sold by him, you say?

A.—No, sir.

Q.—You did not hear of any one else selling any wood, did you, since yesterday?

A.—No, sir; I did not. I did hear that it was said that I authorized Jerry Hodnett to sell wood. I never authorized him to do any such thing.

Q.—Is that all the explanation you want to make in regard to the wood, Mr. Hall?

A.—No, sir.

Q.—You were asked yesterday about monuments?

A.—Well, I want the opportunity of going to the park and looking about that, in the first place. I wish to explain about that load of wood which was sent to my house, if you will excuse me from diverting a little from the testimony. [Please don't take this down.] Will I be allowed to say something?

Mr. Carson—I would rather you would testify?

A.—Very well, sir. A load of the wood, as I said yesterday—one cart load of wood was sent to my house without my knowledge. It was sent by the foreman in charge, Mr. Quigley; whether or not with Enright's knowledge, at the time, I never was able to understand. Enright had charge over Quigley when I was away, but Quigley sent the load of wood in perfect innocence, I believe; but I told him, when I found it was gone to my house, that no such thing should occur again, and I did not believe it would. I have several witnesses to substantiate this statement.

Q.—Have you any other statements concerning what you testified to yesterday, that you desire to make?

A.—Concerning monuments, I do.

Q.—Anything else?

A.—Well, sir; I cannot think of anything now, but I would like to review the testimony and make any corrections hereafter. Those are the only two points.

JEREMIAH W. HODNETT, recalled, re-sworn, and testified as follows:

Mr. Carson—What is your occupation?

Answer—At present I am with Isaac Friedlander, as wheat sampler.

Q.—Where do you live?

A.—On Seventeenth street, between Mission and Valencia.

Q.—Were you ever employed at the Golden Gate Park; if so, in what capacity, and for how long?

A.—I was employed there as laborer and foreman. I could not exactly tell the time; I think it was something less than two years, and over a year.

Q.—Do you remember the time Mr. Hall assumed the superintendency of the park?

A.—I presume I do, as I have been working with Mr. Hall right along.

Q.—Had you been with him before that time, when he had the contract for the survey of the park?

A.—Yes, sir.

Q.—When did you leave the park employment?

A.—I think I left the park employment about the first of April; I think it was eighteen hundred and seventy-two.

Q.—Do you know anything, sir, about any stone monuments in the park?

A.—Yes, sir; I have helped to place stone monuments in the park.

Q.—This was during the preliminary survey made under Mr. Hall's contract with the Commissioners?

A.—Yes, sir; the first time I worked there.

Q.—Before he assumed the superintendency?

A.—Yes, sir.

Q.—You helped to place those monuments there?

A.—Yes, sir.

Q.—How many of them, sir?

A.—I could not state the number.

Q.—About how many?

A.—I could not state the number positively; it was over ten, and about—I should think it was less than twenty—unless I went over the ground, and I could very likely tell then within two or three.

Q.—You mean that were placed there?

A.—Yes, sir.

Q.—Do you know what has become of any of those monuments that were placed there?

A.—There were some of those monuments I had taken up afterwards?

Q.—Describe them as near as you can?

A.—As near as I can describe them, the monuments were from eighteen inches to two feet and a half in length—of different lengths, dressed on top; that is, chiseled off on top.

Q.—Granite?

A.—Yes, sir; granite, and I think numbers cut on the top of them. They may be six inches square or more, or not—chiseled square.

Q.—For what purpose were they used on the park?

A.—I presume they were used for marks for levels, and indications of points on the park.

Q.—Do you know of any of those monuments having been removed from the park?

A.—Yes, sir.

Q.—I speak of those monuments that were set as indicating points. Do you know of those having been removed?

A.—Yes, sir.

Q.—State, if you please, how many of those were removed; by whom; under what circumstances; and to where?

A.—The number I cannot tell exactly. I removed them by Mr. Hall's orders. He sent me there with an express wagon and I took them up. Some of them were up; they were grading at the time and they were fallen down; and, I think, one or two were covered, which I had to dig down to get.

Q.—How many?

A.—The number I could not state. There was an express wagon load; as many as the expressman would bring from there; he said he could not haul any more; but I think Mr. Hall gave me the number of monuments that I was to take out. I am not positive, but to the best of my recollection that is how I got at them.

Q.—You were at the time in the employment of the Park Commissioners, were you?

A.—No, sir.

Q.—You were before that?

A.—Yes, sir. Just after the grading was laid out, I think it was, and after I was out at Fort Point working for Mr. Hall on the reservation.

Q.—What did you do with those monuments?

A.—Took them down on Davis street, to the San Rafael boat, and shipped them to San Rafael.

Q.—To whom?

A.—To Mr. Hall.

Q.—Do you know of your own knowledge what use they were put to there?

A.—Not of my own knowledge; only by hearsay.

Q.—Do you know the value of them?

A.—No, sir; I do not.

Q.—Can you inform us of the number that you took?

A.—Well, I am not positive to the number; it may be eight and might be ten; it might be less than either one.

Q.—What is the name of the expressman who hauled them?

A.—His name is Welch. At present I see he stands opposite Powell and Market street; I think in front of James McGinn's place. I saw the name on an express wagon there.

Q.—Do you swear positively that it was by Hall's express, personal order that you took up those monuments and shipped them to San Rafael?

A.—Oh, yes, sir.

Q.—Do you know anything, Mr. Hodnett, of any wood, stove-wood for fuel, having been cut in the park during the time you were employed there?

A.—Yes, sir.

Q.—Tell us, if you please, how that wood was ordered to be cut and what became of it or any portion of it?

A.—Well, I could not tell the quantity that was cut, and the way I understood it from the men who were cutting it was that some were cutting by the cord and some were cutting by the day, different times.

Q.—Did you have charge of the cutting at any time?

A.—No, sir; I do not believe there was any particular charge of it unless it was to tell the men where they would cut, and where they would not cut wood.

Q.—Do you know anything of the quantity of it?

A.—No, sir; I do not.

Q.—Can you approximate the quantity of wood that was cut there?

A.—Well, no; there was a good deal of wood piled up there; I presume, at the time, I could tell very near, but it is so long ago that I cannot recollect the number of cords. It was generally piled up in piles, from a half a cord to several cords.

Q.—State, if you please, to what uses that wood was put, if any, on the park?

A.—I do not know of any use that it was put to on the park, to my own knowledge.

Q.—State, if you know, if any of that wood was sold; if so, by whom, to whom, and at what price?

A.—Well, there was an order to sell the wood—

Q.—By whom?

A.—I asked Mr. Hall—

Q.—[Interrupting]—What position did you occupy at that time?

A.—I acted in the position of foreman.

Q.—Was Hall Superintendent?

A.—Yes, sir.

Q.—And you were foreman?

A.—Yes, sir; I told Mr. Hall, there had been several parties there inquiring about that wood; and Hall told me—the parties I have forgotten—that if I received money upon the ground, to sell the wood, or if there was an order from him; that if I received the money, I was to deliver the quantity that the money would pay for.

Q.—To deliver it without an order from him, then?

A.—Yes, sir; if I received the money.

Q.—Did you ever sell any wood under those orders?

A.—No, sir; I never received an order to sell the wood; but I told Mr. Hall I would like to have some of the wood, and he told me I could take some of it; I forget the quantity I did take—whether it was a cart-load, or two cart-loads, I do not know.

Q.—Did you ever pay for it?

A.—No, sir; I did not.

Q.—Did you ever get an order from any person to deliver any amount of wood on Webster street?

A.—Well, I did get a kind of an order, this way: I got a number on Webster street, from Mr. Quigley, to send some of the wood there.

Q.—Did you send it?

A.—Yes, sir. I showed the men the pile of wood that they could go to and take it out of, and I presume they took it.

Q.—That is all you know about it?

A.—That is all I know about it.

Q.—Did you ever receive any money for any wood?

A.—Well, there was money placed in my hands for wood in this way.

Q.—By whom?

A.—By Mr. Hendricks, I think, his name is.

Q.—Is that the man? [Pointing to Mr. Louis Enright.]

A.—Yes, sir. He had received some money for wood from the party. I cannot state his name now. I do not recollect; and the pile had more in it than this amount of money would pay for. I objected to delivering that amount without the full amount of money to pay for it be correct. I said that I would let him have it from another pile, if he would take it, that would amount to about that much. They would not take that; they thought this was better

wood; then I returned the money, stating that I would not deliver it without Mr. Hall's order, or without the amount in full, for that amount of wood. In the meantime, I know he delivered that pile of wood that day; whether he received the full amount of money or not, I cannot say.

Mr. Broderick—What position did Enright hold at that time?

A.—I understood he was assistant engineer.

Q.—He was above you at that time?

A.—No; I didn't understand that, till afterwards.

Q.—You know he let the men take the wood?

A.—Yes, sir; and I told him not to do it.

Mr. Carson—About what quantity?

A.—I forget the amount in the pile.

Mr. Broderick—Can't you estimate it, based upon the money transaction?

A.—Yes, sir; I cannot state the amount, but I know it was not equal to pay for the amount of wood that was in this pile.

Q.—How much money did you get?

A.—I cannot recollect.

Mr. Carson—What did you do with that money?

A.—I returned it to Mr. Enright.

Mr. Barber—Don't you know how many cords there were?

A.—I cannot recollect, after four years, the amount of wood there was in the different piles. I am certain there was more than one cord in it; that is the reason that I would not deliver it.

Q.—How much more was there than one cord?

A.—I do not recollect how much there was more than one cord.

Q.—Do you think there were five cords?

A.—I do not think there were.

Q.—Between three and five, do you think?

A.—There might not have been as much as three cords.

Q.—You are satisfied there was over one cord?

A.—Yes, sir; there was over one cord.

Q.—And you do not think there was five?

A.—I do not think there was five. My recollection of the size of the pile is all I can go by to recollect that.

Mr. Carson—Have you not said that you have sold wood there, and received the money, and given the money to Mr. Hall?

A.—No, sir.

Q.—You have never said that?

A.—I have never made that statement.

Q.—Are you positive about that?

A.—I am positive of that, sir; that I never sold wood there and gave the money to Mr. Hall.

Q.—Did you not, on the thirteenth of January, make that statement?

A.—No, sir; I never made that statement.

Q.—To this committee?

A.—No, sir; never. I never made that statement, that I ever gave any money to Mr. Hall for any wood.

Q.—Did you, or not, state to this committee, on the thirteenth of January, that your orders from Mr. Hall were, that if you received the money you were to pay it over to him?

A.—Yes, sir. Well, yes, in that sense; that if I sold wood on the ground I was to receive the money for the full amount of the wood and sell it; or, on an order from him.

Q.—And deliver it?

A.—Yes, sir.

Q.—Did he ever send any order to you to deliver any wood?

A.—No, sir.

Q.—What team, if you know, hauled that wood to Mr. Hall's house?

A.—I did not know the men's names.

Mr. Broderick—This number that was given to you in Webster street, was that Mr. Hall's house?

A.—I could not say whether it was Hall's house or no.

Mr. Carson—Well, to this place on Webster street?

A.—Well, I cannot remember the names.

Q.—Was it, or not, hauled by a team or teams belonging to, or in the employ of the park?

A.—Yes, sir; it was teams on the park at the time that were sent to me for the wood by Mr. Quigley.

Mr. Barber—Has there been any talking to you by men employed on the park, or connected with it at the present time, about that?

A.—Yes, sir; several men working out on the park.

Q.—Has no one talked with you about the wood?

A.—Well, Mr. Quigley and I may have talked about it this morning, before coming in.

Q.—What did Mr. Quigley say to you?

A.—Mr. Quigley said, about the wood matter, he recollects, at one time, having a couple of loads of wood go to Webster street.

Q.—Did he tell you he received any money for it?

A.—No, sir; he did not.

Mr. Carson—Do you remember when the break occurred in the Spring Valley Water-works, in the neighborhood of the park, when you were employed there?

A.—Yes, sir; I recollect the circumstances about it. I did not see the break.

Q.—Tell us what you know about that?

A.—Well, one morning—early in the morning—I think, between nine and ten o'clock, the foreman, at least he was represented to me as such, came on the ground in the park, and asked me if I could let him have some men and some carts to stop a break in the reservoir. I told him I had no authority to do so without he could see Mr. Hall. He asked me where he could find Mr. Hall; I told him he could probably find him at the office in town; and he says if he would wait that long the break would get to be very serious, and, perhaps, it would destroy the reservoir. Under the circumstances I took the responsibility on myself, and let him have some men; and, I believe, I consulted Mr. Quigley about it—but I let him have the men anyhow, with some carts, to stop the break.

Q.—Did you stop the break?

A.—Yes, sir; I did.

Q.—Do you know of any money having been paid by the Spring Valley Water Company for those services?

A.—No; I don't.

Q.—Do you know of any bill having been made out for those services?

A.—Yes, sir; some man came sometime after and asked me if I had made out a bill, and I told him I didn't; he said he would make

out a bill and give it to me, and that I could have it collected at the office of the Spring Valley Water-works in the city.

Q.—What did you do with it?

A.—I gave it to Mr. Hall.

Q.—Do you know anything about whether it has been paid or not?

A.—No, sir; I do not.

Q.—What was the amount specified in that bill?

A.—I do not recollect the amount.

Q.—Well, approximate to it?

A.—Well, to come within bounds, I suppose it would be from twenty-five to thirty dollars; that I am not positive of, but that is as near as my recollection can serve me; it is about that.

Mr. Broderick—Did you tell anybody since you waited on the committee the other morning, of your testimony?

A.—That I had giving testimony?

Q.—Did you state to anybody the character of the testimony you gave the other day?

A.—I might of a portion of it, when I was asked.

Q.—Did you say anything in regard to this fact of selling wood, and paying the money to Hall, to anybody?

A.—No, sir.

Q.—Are you sure of that?

A.—I am sure of that.

Q.—The fact is, you did say it, and there are witnesses against you. You said you did say that, and we have got it both in my minutes and in the minutes of the reporter.

A.—Well, it is a good many against one. I could not say it because it is not so. I did not receive any money and give it to Mr. Hall for the wood.

Q.—You testified before the committee that you did.

A.—I said I asked Mr. Hall if he would pay what was the amount of my bill, for my work.

Q.—That is not the question, as we have that. You testified the other day that Mr. Hall said he would make out a voucher for the amount you had; you said you never paid it out, and you did not pay that. The question was: "Some of that wood was sold, was it not?" To which you answered: "Yes, sir; I sold wood there to parties, and I gave Mr. Hall the money. My orders were to deliver it on orders from Mr. Hall, and I was to deliver it on the ground."

A.—That statement is correct with the exception of that I received money and gave it to Mr. Hall. I didn't receive any money on the ground, excepting the statement I made this morning of receiving money, and paying it back, because there was not enough to pay for that pile.

Q.—There are four or five of the committee whose recollections are against you on that point. How were you usually paid by the Park Commissioners, in scrip or in coin?

A.—I was paid in coin, sir.

Q.—By whom?

A.—By Mr. Hall.

Q.—Did he deliver the money to you himself?

A.—Yes, sir; on the ground.

Q.—Always?

A.—I believe so.

Q.—The system of issuing vouchers to the men employed there, and those vouchers being paid by the Treasurer here below, was not in vogue at that time when you were employed there?

A.—No, sir; not at that time.

FREDERICK MAN, called and sworn, and testified as follows:

Mr. Carson—What is your occupation?

Answer—At present, United States Deputy Surveyor.

Q.—Where do you reside?

A.—Number two hundred and twenty-six, Francisco street.

Q.—Were you ever employed on the park, and if so, in what capacity, and how long?

A.—I was, I think, nearly three or four months, in the early part of eighteen hundred and seventy-two; first as draughtsman, and then I was taken out to do some surveying. And then, afterwards I was sent out to number, not particularly to number, but to mark the stakes where the trees should be planted. Then I went there and acted in the capacity of foreman there.

Q.—How long were you on the park altogether?

A.—I think three or four months; I do not recollect.

Q.—What was your profession originally?

A.—My profession is a landscape gardener.

Q.—How long have you followed that profession?

A.—I followed it since eighteen hundred and fifty-one.

Q.—Do you know Mr. Louis Enright?

A.—I do.

Q.—Is he in the room?

A.—He is; yes, sir.

Q.—Was he employed at the same time there?

A.—Yes, sir.

The Chairman—Mr. Enright requested me to find Mr. Man, and stated that he was an important witness for us to have.

Mr. Carson—In what capacity was Mr. Enright employed at the park at the time you were there?

A.—He was foreman, too, sir.

Q.—Do you know anything of any city monuments to designate grades?

A.—City monuments; no; they were outside of the park.

Q.—Do you know, in your capacity as assistant surveyor there, anything of those monuments having been used as guides for the amount of grading or filling that had to be done?

A.—Yes, sir.

Q.—State in what capacity those monuments were used.

A.—The City and County Surveyor, if he gives a contract out to private contractors, they always go from the city monuments.

Q.—What I want to get at is this: Was the grading and filling in the park governed at all by the position of these city monuments there?

A.—Well, yes, sir; I will say yes.

Q.—Did Mr. Enright, or didn't he, at any time while you were employed on the park, approach you with any proposition in reference to lowering a certain city monument?

A.—He did.

Q.—State the circumstances, if you please?

A.—There was a contractor named Kenny—

Q.—What work was he doing?

A.—He was contractor for the large avenue, the entrance to the park, and for macadamizing the road there; and Mr. Enright made a proposition to me; says he: "Here, when we come to figure out the amount of grading to Kenny, we, being foremen, we can make five hundred dollars out of that, and we divide it, and all we do is to lower a city monument."

Q.—How was it proposed to you that that would make five hundred dollars; was it understood that, by lowering the city monument, there would be a less amount of filling?

A.—Yes, sir; it would go so much more quantity in yards.

Q.—More?

A.—Yes, sir; certainly; more than was really done.

Q.—Did you accept the proposition?

A.—I did not. I looked at it as a ridiculous thing, because I knew well enough that the city monuments could not be lowered.

Mr. Broderick—You say you knew it could not be lowered?

A.—It could not; because it would be easily found out.

Q.—Could not that particular monument remain in that position till the City Surveyor found it out?

A.—I could not say, exactly, till the work was done on those grades, and then it might be found out the next day.

Q.—And it might not be till Kenny was settled with?

A.—No.

Q.—Did Mr. Enright point out the locality of the monument?

A.—No; he did not; there were three or four in that neighborhood.

Q.—He didn't mention which one?

A.—No, sir; in fact, I had to mention one myself, for to use the work myself on the grades.

Mr. Carson—Do you know, as an expert, Mr. Man, whether the grading and rebuilding performed by Mr. Hall, as engineer, was the most economical that could be done?

A.—No, sir; the way I understand it is you mean to ask me if it could be done for a less amount of money.

Q.—Yes.

A.—I say it could have been done far more economically.

Q.—Here is a map. Now, specify to the committee any particular points where you think the grading could have been done, or the roads built more economically than they have been?

A.—That would go right back to the topography. I mean the entrance drive between Oak and Fell, Shrader and Stanyan streets. The grade was altered a couple of times there, and down here [showing] they made some other alterations.

Q.—Do you know anything of the intersection of the southern drive with this county avenue as extended?

A.—Yes, sir; that is an entirely different map from what was used at that time. There used to be an old hog ranch, and a road around to that there. [Showing.] There was a cut, I believe, and there was a hundred men employed there on that cut, and that might have been avoided.

Q.—How?

A.—By making a shorter curve and going around that hill.

Q.—How long were those hundred men you speak about employed there?

A.—I had them there very nearly a month.

Q.—How many men would you require for it, supposing it to accomplish the result in the mode that you suggest?

A.—Well, the great trouble was—

Q.—[Interrupting]—Answer the question, if you please, and never mind the trouble.

A.—Well, I think I could have taken about twenty men and in a month accomplished the same result around the hill.

Q.—As a landscape gardener, would you cut away that hill in the way it has been done?

A.—No, sir; because instead of a benefit it was a detriment.

Q.—In what way?

A.—Letting the wind through. It was a natural shelter there at the same time, and that should have been preserved.

Q.—Do you know anything of Mr. Hall having to get clay afterwards, and put where he had graded away?

A.—Yes, sir; he had to take the clay right at the entrance. If it had not been for that all the sand would have been carried into San Francisco by this time.

Q.—Had he adopted the course which you suggest, would there have been any necessity for all that clay and all that labor?

A.—No, sir; the clay might have been used for more useful purposes; planting trees and such things as that.

Q.—Would it have added to, or taken away from, the natural beauty of that locality, to allow that hill to remain and build a road around it?

A.—Oh, yes; because in landscape gardening you merely can assist nature a little by beautifying it. Nature is beauty itself, and it don't require beautifying at all; it is natural beauty.

Q.—Do you know anything of the sewers laid there?

A.—Oh yes; there were a good many sewers laid when I was there.

Q.—Can you point out the localities in which they were laid?

A.—Some of them I can. There was a sewer laid from the locality known on this map as the valley, across one of the drives—across the road called the approach into the middle lake.

Q.—About what length was that sewer?

A.—I should judge that, sir, to be very near five or six hundred feet.

Q.—Of what was it built?

A.—Redwood lumber—two-inch redwood plank.

Q.—Of what capacity was it?

A.—It was a foot wide—that would make a sewer of about eight or ten by ten.

Q.—What outlet and inlet, if any, did that sewer have?

A.—Well, there was no necessity for a sewer at all.

Q.—Why?

A.—At that season the weather was very wet, but if it was graded all around, the water would naturally have went off without a sewer.

Q.—You considered that an useless expense?

A.—I did.

Q.—To what depth was that sewer put?

A.—At the lower end I know it was so dangerous that we had to plank and bulwark it to let the men work.

Q.—What was the depth?

A.—It must have been from twelve to fourteen feet.

Q.—How was it at the upper end?

A.—The upper end I think was laid down about two feet.

Q.—Do you know anything of any water-pipe being laid there?

A.—Yes, sir.

Q.—In the park? Tell us, if you please, what you know about that.

A.—There was an old well close to the milk ranch here [showing] at the entrance.

Q.—Specify the locality.

A.—About here; near the corner of Fell and Shrader streets; in that neighborhood, as near as I can recollect.

Q.—The old well was there?

A.—Yes, sir; outside of the park. Them pipes were laid in this avenue, going up nearly three-quarters of a mile long.

Q.—What kind of pipe was used?

A.—If I recollect right it was two inches—it seems to me now it was two inches light iron gas-pipe, laid along the edge of the avenue. Yes, it was two-inch pipe.

Q.—In this avenue?

A.—Yes, sir; it ended very near to this lake; very nearly three-quarters of a mile.

Q.—Did you consider that the best mode in which to lay these pipes?

A.—No, sir; not at all; there was no possible use of them whatsoever.

Q.—How should they have been laid?

A.—I would have made a system of network all around, so that you could water the court (?) with a one hundred-foot hose, with hydrants so situated that you can water four hundred feet at the same time with the hose. And it could have been done much cheaper with water-carts for the roads, than it could with pipe. Another thing: hose is very expensive; and if you roll the hose, or drag it along the macadamized road there, it don't last more than a few months.

Q.—Do you know whether that system of laying water-pipe in squares has ever been adopted in the park?

A.—I do not know that they have; but I had already done it in R. B. Woodward's place.

Q.—Do you know of a well sunk in the park grounds?

A.—Yes, sir—while I was there.

Q.—Tell us what you know about that?

A.—Well, it was sunk in this clay—hard-pan; and it was a most useless thing to sink it there, because no water has been found in such a hard-pan as that, and never has been to any extent.

Q.—Did you, or not, expostulate with Mr. Hall upon the sinking of it.

A.—I told Mr. Hall he never could get water in that well.

Q.—What did he say?

A.—He did not say nothing, but went and done it anyhow—continued the work.

Q.—Did you say anything about its being money thrown away?

A.—Yes, sir; I believe I made that remark, because I generally would make such a remark as that.

Q.—Do you know of any trees having been planted in the park in that locality?

A.—Yes, sir.

Q.—Specify what they were, and what quantity.

A.—One of the Commissioners bought a lot of trees under contract from Mr. Kelsey, in Oakland, and got them at a very small price—I believe fifteen cents on an average, if I recollect right; but of these trees nearly one-third were deciduous, such as walnut and ash, and it was useless to plant them in such a locality, out there, especially at that time.

Mr. Broderick—Was there any elm trees?

A.—Yes, sir; there was elm among them too, and black walnut.

Mr. Carson—Do you think a man who understood his business would plant such trees there?

A.—No, sir.

Q.—Why?

A.—Because they are entirely unfit for the locality.

Q.—They could not live?

A.—They might live, but then they would never grow.

Q.—Did you consider that it was money wisely expended, buying and planting such trees?

A.—No, sir.

Q.—In what light did you consider it?

A.—If I know a tree will not do well, what is the use of planting it, because it costs to buy it, so much, and to plant it and to water it afterwards.

Mr. Broderick—And that money is lost?

A.—That money is lost.

Mr. Carson—Do you know anything about the nurseries in the park?

A.—I do, sir.

Q.—The old nursery?

A.—Yes, sir.

Q.—And the new one?

A.—Yes, sir; that is, the new one I never have seen, although I started the grading of it; then the men were discharged—about two hundred of them—and we all had to leave.

Q.—Was there any necessity of the removal of the old nursery?

A.—Yes, sir; I would say there was, because the nursery was at the entrance of the park, and I say there was a necessity for removing it.

Q.—What was the necessity?

A.—Well, it mars the beauty a little, right at the entrance; there is a great deal of dirt and work going on, and men looking very disreputable in their old working clothes.

Mr. Broderick—When did you find out this fact?

A.—I never was asked this question the first day.

Mr. Carson—You say, in your former testimony, "I laid out and surveyed it, and Mr. Hall went and changed the grade from six to eight feet. There was no necessity of that, in my opinion."

A.—No, sir; there was not.

Q.—Where was the grade changed—in the nursery?

A.—In the new nursery.

Q.—Why was there no necessity?

A.—Because it was more benefit to have the low ground for the plants to grow than to put a sand bank up and let them grow on top of the sand.

Q.—Did you consider that locality selected here for the nursery that you surveyed the best and most advisable place in the park?

A.—Yes; I do.

- Q.—Why?
- A.—Well, it is out of the way; it is a place out at one side, and I do not think there is another place in the park that would be better.
- Q.—That nursery could just as well have been used—the new one, I mean—without all that grading and filling?
- A.—Without the most part of the grading, that was done.
- Q.—What was the depth of that grading and filling done there?
- A.—I believe, in some places, a cut of six or eight feet; and there were big fills there; one fill must have been at least ten or twelve feet.
- Q.—While you were in the employment of the Park Commission, did you do any work for Mr. Hall?
- A.—Yes, sir; I did.
- Q.—Personally?
- A.—Yes, sir.
- Q.—State what it was?
- A.—I copied, once, a map, or part of a map, for William T. Coleman, in San Rafael.
- Q.—What else?
- A.—Once I copied a little bit of a map for his father-in-law, Mr. Fitzhugh; that was not much.
- Q.—Did you copy a map of Coleman's property?
- A.—Yes, sir.
- Q.—Did you copy it, or draw it from the field notes?
- A.—No, sir; I copied it from the map that Mr. Hall had—merely traced it.
- Q.—Do you remember, a couple of days ago, stating to this committee that while you were employed by the Park Commissioners, and in their pay, at Mr. Hall's orders, you made a map, the field notes having been brought to you, and you drew the map; that Mr. Hall brought in the field notes, and it was a survey made by him?
- A.—The survey was made by Mr. Hall, and it was a tracing over the map.
- Q.—In the case of Coleman's property?
- A.—Yes, sir.
- Q.—Whose property was the other map that you copied?
- A.—That was for some land down in the southern section—a survey of a grant down there.
- Q.—Whose property was it?
- A.—I could not say, but Mr. Fitzhugh brought in the map.
- Q.—Who is Mr. Fitzhugh?
- A.—He is the father-in-law of Mr. Hall.
- Q.—You were employed in the department at that time?
- A.—I was, sir.
- Q.—Were you employed in the office in town, or at the park?
- A.—In the office in town.
- Q.—As draughtsman?
- A.—Draughtsman.
- Q.—Did you make these copies of maps in office hours or outside?
- A.—During office hours.
- Q.—Were you ever paid anything for that?
- A.—Not a cent.
- Q.—It was all done by Mr. Hall's orders?
- A.—Yes, sir.
- Q.—How long did this special work occupy you?

- A.—It might have taken two or three days.
- Q.—How long did it take? Mightn't it have taken you four days, as you stated to the committee the other day, on those two jobs?
- A.—It might.
- Q.—Didn't it?
- A.—No; I could not say positively.
- Q.—What materials did you use in making the drawings—the copy?
- A.—I used oiled silk—oil cloth.
- Q.—Where did you get it?
- A.—In the park office.
- Q.—Belonging to the park office?
- A.—That I could not say, whether it was Mr. Hall's or the park property.
- A.—Did you ever receive any money from anybody for those services in these two maps?
- A.—Not one cent beyond my one salary.
- Q.—That you received from the treasury?
- A.—That I received from the treasury; no, from Mr. Hall; he generally paid off the men himself.
- Q.—Directly, at the time the payments were made on the pay-roll?
- A.—Yes, sir.
- Q.—These vouchers were introduced as required by the new law?
- A.—This is before that time.
- Q.—Was there any pipe laid on the top of the ground at the park?
- A.—Not that I know of.
- Q.—Do you know of any pipe having been allowed to rust and waste there?
- A.—Well, I do not know whether these pipes laid there at the time were in use. I do not know if they laid on the ground to go to waste; I cannot say; I have not gone out to the park for a long time, with the exception of about a month ago that I drove there with Mr. Doyle.
- Q.—During the time that you were employed upon the park, and Mr. Hall was Superintendent, how often did he visit the park, and what time per day did he spend there?
- A.—Oh, he generally would come out every day. He would be there generally every day, and sometimes he would remain there half an hour; sometimes two or three hours; he would drive there with his buggy; he used to drive around and then he might go home again. It was very seldom he stayed there to do any work.
- The Chairman*—He would take his whip in his hand, I suppose, and point out where the work was to be done.
- A.—Yes, sir.
- Mr. Carson*—That would be for the witness to say, not you.
- Q.—Are you a civil engineer?
- A.—I am; yes, sir.
- Q.—Do you know anything of the value of surveyors' instruments?
- A.—I do, sir.
- Q.—Do you know the instruments that are now at the park, or belonging to the park?
- A.—I knew the instruments at the time I was there.
- Q.—The instruments then owned by Mr. Hall?
- A.—They were owned by Mr. Hall; yes, sir.

Q.—In eighteen hundred and seventy-two you knew those instruments?

A.—Yes, sir.

Q.—Do you remember the transit Mr. Hall had there; have you seen that?

A.—Is it a bright brass instrument?

Q.—I am asking you. The transit Mr. Hall had in eighteen hundred and seventy-two, when you were in the park. Do you remember that, sir?

A.—I do, sir.

Q.—What was the value of that transit at that time?

A.—Mr. Hall informed me at that time that he bought it—

Q.—Never mind. One moment, Mr. Man. I am not asking what Mr. Hall told you or anybody else. You announced yourself as an engineer, claiming to have knowledge of surveyors' instruments?

A.—Yes, sir.

Q.—Now, I am asking you first whether you knew the transit which Mr. Hall had in use at the park in eighteen hundred and seventy-two?

A.—I do, sir.

Q.—You said "yes," and now I ask you what was the value of that instrument at that time?

A.—About one hundred dollars.

Q.—Do you remember a leveling instrument that he had there?

A.—I do, sir.

Q.—What was the value of that at that time?

A.—About seventy-five dollars.

Q.—Do you remember a leveling rod he had there?

A.—Yes, sir.

Q.—What was the value of that at that time?

A.—It is a rod that is hardly ever used—

Q.—[Interrupting]—What was the value of it at that time? I do not care whether it was ever used or not.

A.—I think about ten dollars.

Q.—Do you remember a twenty-foot measuring rod with leveling bulbs?

A.—No, sir. Oh, I do remember that rod.

Q.—What was it worth?

A.—Fifteen dollars. Ten or fifteen dollars.

Q.—Do you remember a surveyors' fifty-foot rule?

A.—No, sir.

Q.—Did Mr. Hall at that time have one or two transits?

A.—He had one transit out at the park and one transit at his office.

Q.—Was there any difference in the value?

A.—Yes, sir; one was a new one.

Q.—Is that the hundred dollar one you specified?

A.—No; that is another instrument. I should call that instrument worth two hundred and twenty dollars.

Q.—And the other you think was worth a hundred?

A.—Yes, sir; that new one was never used on the park.

Q.—Do you know whether any tents were ever used out there?

A.—No, sir.

Q.—Was there any necessity, in your judgment as an engineer, for any tents on that ground?

A.—No, sir; none at all.

Mr. Hall—May I have the privilege of questioning this witness?
The Chairman—Certainly, Mr. Hall.

CROSS-EXAMINATION.

By Mr. Hall—You say you are a Deputy United States Surveyor?
 Answer—I am.

Q.—Do you hold any paper to that effect?

A.—Yes, I do. I hold two; one from Mr. Hardenburg, and one from Mr. Stratton.

Q.—You are a landscape gardener?

A.—Yes, sir.

Q.—What has been your experience in landscape gardening?

A.—Well, considerable in the City of New York, in the City of Boston, and here in San Francisco.

Q.—Is your reputation well established?

A.—Well, I laid out R. B. Woodward's place, and I laid out all the biggest places in California, and I laid out a large place in Massachusetts, too.

Q.—Do you know whether the monuments you spoke of, the city monuments adjoining the avenue, were ever touched or lowered?

A.—No; I do not know.

Q.—You never heard anything further after the proposition was made to you by Mr. Enright?

A.—No, sir; I never had a chance, even to see Mr. Kenny. When I came back to San Francisco, I learned he was dead—the contractor.

Q.—In improving a place like the park, are the principles of good taste, and the carrying out of a judicious plan, to be sacrificed in the saving of a little money in some earthwork?

Mr. Broderick—I do not think that is proper. It is rather leading.

The Chairman—I think we will have to rule that out.

Mr. Hall—Mr. Man has testified that the work could be done cheaper. I will ask the direct question on that road, then.

Mr. Broderick—I move that the question be stricken out.

The Chairman—If there is no objection, the reporter will strike it out.

Mr. Hall—Well, then, I will ask the question. Mr. Man, would the change you spoke of in carrying the road around this hill, inside of that point as it was—you assert positively it would have been a decided advantage and a very great saving?

A.—Yes, sir; because you destroy the sheltered work there, too.

Q.—Speaking of the sewer laid in the central valley, or drain, you said it was about twelve, or may be fourteen feet in depth at the lower end, and about two feet at the upper end?

A.—Yes, sir.

Q.—On what pitch was that sewer laid; was it laid on a greater pitch than was necessary?

A.—It was all set by instrument; I set the grading for it, too. I do not recollect what it was.

Q.—But you set the grade for it, and you thought it right?

A.—Well, when you ordered the work in there—

Mr. Carson—By whose orders did you set that?

A.—By his orders.

Mr. Hall—Did I establish the grade, or you?

A.—I do not recollect whether you established it or not.

Q.—At the time, did you think the grade was set right, or not?

A.—Well, I thought the sewer was an unnecessary work.

Q.—But presuming that it was necessary, did you think the grade was right, or not?

A.—Well, I presume, yes; I say yes, the grade was right.

Q.—It was unnecessary, then, for the reason, as I understand you to say, that by filling up towards the upper end there would be a natural drainage without the sewer.

A.—How?

Q.—By filling the upper end of the valley that the sewer was put into, you understand; by filling that valley there at the same point, the water would have drained off naturally, without the sewer?

A.—So it would; yes, sir.

Q.—Now, you say [draws a small diagram], here is the sewer, that is the shape of the land, say.

Mr. Carson—Is it the shape of the land?

A.—Yes, sir; I think it is something like that.

Mr. Hall—And then running down this, here, to what we call the lake?

A.—Yes, sir.

Mr. Hall—Here is the sewer and what Mr. Man considered a proper grade. It is nearly two feet under ground here [showing], and it is twelve or fourteen feet higher than here; therefore it would have taken more than twelve or fourteen feet filling back here to run the water off naturally. I submit that that is an economical piece of work, and not an extravagant one.

Mr. Carson—We are not arguing this matter now. It is just your cross-examination.

Mr. Hall—You say that dragging hose around on the ground upon those roads wears it out very fast?

A.—Yes, sir.

Q.—Did you know that the road-hose are all mounted on wheels and rolled around without wearing it?

A.—Not at that time.

Q.—One season they were not, but they were afterwards.

A.—Afterwards? I do not know; they were not at that time.

Q.—Do you know that that is the system of watering roads that is carried out on all the parks in Paris where they water them?

A.—There are few places in the world where they need to water them.

Q.—Do you know that that is the system in Paris parks for road-watering?

A.—I do not know.

Q.—In sinking that well, do you remember who sunk the well—put it down?

A.—The first were two Germans; they commenced on it first. I do not know their names.

Q.—They sunk a little trial well, but who took the job of sinking the well?

A.—I do not know what his name is; he wore specs—he was the second one.

Q.—Did the man say that in his judgment there was no water there?

A.—The first two Germans said so. I said so, too. This one with specs on, he professed that he could get water.

Q.—You said that the grade in the new nursery was changed six or eight feet, I believe?

A.—No; I did not say so. I said the grade was changed some; that is what I said.

[Mr. Hall here requests that the reporter turn to the evidence of the witness on that point.]

Mr. Carson—You had better ask him what he did say; it will be cheaper.

A.—I am mostly positive it must have been four feet.

Q.—How much was the cutting and filling? How deep was the cut and how deep was the fill?

A.—Well, really, I think there was some cuts, I think, from five to six feet, and some fills; otherwise it must be very short in my memory; they, I think, were from ten to twelve feet, some portions of it—not all of it; I might say a foot, more or less, but I would not like to be responsible for that.

Mr. Hall—There are some points I would like to bring out in this; just such a point as this was. Mr. Carson has said that this is not the point for argument, but for testimony. I suppose I may have an opportunity of showing how conflicting this testimony is—not conflicting, exactly, but improbable, in a professional point of view.

Mr. Carson—I think I express the views of the committee, without having consulted them, when I say that our time here to-day had better be limited to eliciting what facts we can, and at some subsequent session here or in Sacramento we shall be glad to have the testimony explained to us, and these improbabilities that Mr. Hall refers to can be pointed out.

Mr. Broderick—That is the general understanding of the committee, and Mr. Hall has been told that once before—that we would not close the thing without giving him an opportunity to see the entire testimony.

The Chairman—It is the desire of the committee to go to Sacramento to-morrow morning. We want simply the facts now.

Mr. Hall—I do not know whether the question I am asking now will be admitted. I would like to question the gentleman as to the circumstances of his leaving the park.

Mr. Carson—That is objected to.

The committee sustains the objection.

PATRICK BURNS, called and sworn, testified as follows:

Mr. Carson—What is your business?

Answer—Laborer.

Q.—Where do you live?

A.—I live on the Shamblin Ranch.

Q.—Near Lone Mountain?

A.—Yes, sir.

Q.—Have you ever been employed in the Golden Gate Park?

A.—Yes, sir.

Q.—About when?

A.—I was every season since it commenced, until this last year.

Q.—You did not work there steadily?

A.—No, sir.

Q.—You worked by the day?

A.—Two dollars a day—worked by the day.

Q.—At what wages?

A.—Two dollars a day.
 Q.—Do you know anything of a private contract Mr. Hall had, while he was Superintendent at the park?
 A.—I do, sir.
 Q.—Did you ever work on that?
 A.—I did.
 Q.—While you were employed on the park?
 A.—I was before that.
 Q.—Were you about that time?
 A.—Yes, sir.
 Q.—What work did you do upon that private contract of Mr. Hall?
 A.—Sowing seed.
 Q.—What were your wages there?
 A.—Two dollars a day.
 Q.—How long did you ever work there?
 A.—Well, I could not say the exact days; it is between ten and twelve days, to the best of my belief.
 Q.—Where was this work—this private contract?
 A.—It is to the south side of the park.
 Q.—That tier is three blocks, running west on Nineteenth avenue?
 A.—I cannot tell anything about avenues; it is south of the park.
 Q.—Outside of the park limits and just adjoining?
 A.—Yes, sir.
 Q.—Did Mr. Hall pay you for the work that you did on that outside contract?
 A.—He paid me some, sir.
 Q.—Did he pay you in full?
 A.—Not for the time I was employed.
 Q.—How much did he pay you for the work you did on the outside contract?
 A.—Five dollars and a half.
 Q.—In coin, himself?
 A.—Yes, sir.
 Q.—Was that full payment for all the work you done?
 A.—No, sir; I got the remainder of the wages in my voucher from the treasury.
 Q.—What of the remainder—the balance of your wages for work on that outside work, on that outside contract, in a voucher in the treasury?
 A.—Yes, sir.
 Q.—Can you fix the time when that was done?
 A.—No; I could not, sir.
 Q.—What year was it in? This is eighteen hundred and seventy-six, now?
 A.—It might be eighteen hundred and seventy-five, or might be before that.
 Q.—You mean last year?
 A.—Yes, sir; perhaps a few days before New Year's Day; because I worked on the park before that.

CROSS-EXAMINATION.

Mr. Hall—How many days did you say you worked for me only?
 Answer—I could not say whether it is ten—between ten and twelve days.

Q.—Did you get all the money for your work?
 A.—You gave me five and a half dollars, sir. When you come, giving the voucher, you told me I would get four dollars more, and paid me a few days after. In payment, you gave me five dollars and a half, and a day was deducted in the next month, and I made a charge against the Captain for that, that I was a day short. He asked me if it was the second month. I said I was sure of it. He said it was not entered in his book.
 Q.—Ultimately you got all that was due?
 A.—I did, sir; because the day — I got a day short; the Captain asked how much did I get; I told him; "they said they could fix it themselves," says he.
 Q.—In other words, you worked for him ten or twelve days and received five dollars and fifty cents from him, and got the rest from the park?
 A.—Yes, sir; from the treasury; the vouchers.
Mr. Hall—I would like to ask the witness to identify his signature?
Mr. Carson—I have no objection to that.
 [Mr. Hall shows to the witness two pay-rolls on private work done by him outside of the park—one for the first work done outside, and one for the second work done outside.]
 Q.—Where did I pay you off when I gave you the five dollars and fifty cents.
 A.—Within the office of the Golden Gate Park.
 Q.—Was I paying off the rest of the men at that time?
 A.—Yes, sir.
 Q.—You were called up with the rest?
 A.—I was, sir; we went in one by one.
 Q.—And each man was required to sign the pay-roll?
 A.—No, sir; yes; I signed a book with Mr. Hendricks.
 Q.—You signed a paper, didn't you?
 A.—The book that he handed me only; that my name is in. I did not see him have no paper; only the book.
 Q.—Isn't that your signature? [Showing pay-roll for first outside work.]
 A.—I do not say nothing about that. I did not bring that into dispute at all, but the last one, because I do not remember that—
Mr. Carson—[Interrupting]—Just identify your signature if you can?
 A.—Yes; that is my signature; that is for the first year.
Mr. Hall—Is that your signature? [Showing witness the second pay-roll.]
 A.—Yes, sir; it is.
Mr. Broderick—Why did you cover up those figures when you asked him about his signature?
Mr. Carson—Let him see the whole of the figures. See the amount opposite your name?
 A.—Five dollars and twenty-two cents.
Mr. Broderick—This is your handwriting?
 A.—Yes, sir.
Mr. Carson—I ask that Mr. Hall file these papers, for the present, with the Secretary of the committee.
Mr. Hall—May I recall this witness when I produce the park pay-roll and his voucher?
Mr. Carson—I have no objection.

A.—Yes, sir; I put my hands to the pen.

Q.—You do not write?

A.—No, sir.

Q.—Do you know whether that is the particular paper that you signed in that way?

A.—No, sir.

Q.—Here is the first pay-roll, nine dollars and fifty-five cents on the outside contract; and another pay-roll on the outside contract; this was signed in the same way by somebody else: "Patrick Ward, per L. E."

A.—Yes, sir.

Mr. Broderick—Both signed by Enright for you?

A.—I don't remember but one payment on the outside contract.

Mr. Carson—One payment of cash?

A.—One payment of cash; that is all I can recollect or bring to my memory.

Q.—Are you positive about that?

A.—Yes, sir; I cannot bring to my memory but one payment. Perhaps he might pay me for mixing the seed, but I do not think that was the outside contract at all.

Q.—You do not remember but one payment and one signature of your name?

A.—That is all.

Mr. Hall—Did you receive all the money that was due you?

A.—Yes, sir; I did.

Q.—Then you say you worked how many days on that sand?

A.—Nine days, sir; to the best of my belief it was nine days.

Q.—You were paid by me ten dollars?

A.—Yes, sir; that is all I can bring to remembrance I was paid.

Mr. Hall—May I have the privilege of producing the park pay-rolls before the committee?

[*Mr. Broderick* in the chair].

The Chairman—It would not be in its proper place to-day. You can produce all you please to the committee hereafter, but we do not want to take up the time to-day.

Mr. Hall—I wish to show by comparison of the two—both witnesses have said that they received all their money. I want to show that there was not sufficient money paid them by the park to make up that discrepancy.

The Chairman—That you can submit to the committee hereafter.

J. J. MURPHY called and sworn, and testified as follows:

Mr. Carson—What is your business?

Answer—Gardener, sir.

Q.—How long have you been so?

A.—Since I was ten years old.

Q.—Have you ever been employed by the park?

A.—Yes, sir.

Q.—Since when?

A.—Since eighteen hundred and seventy-one, the twenty-third of August, up to this time.

Q.—Are you gardener there now?

A.—Yes, sir.

Q.—Do you know if any stakes have been cut down?

A.—Yes, sir.

Q.—When, and by whom?

A.—Well, I cut some of them myself.

Q.—They were in the park grounds?

A.—Yes, sir.

Q.—How many were cut down?

A.—I cannot say for the number I cut down, but the man who cut them down is in here at present.

Q.—What is his name?

A.—Francis Rosentral.

Q.—Can you tell us about the number of men that were engaged in cutting down the stakes?

A.—Yes; I believe there was two.

Q.—How many days were they employed in that business?

A.—I believe there was one three days, and the other, I believe, was three weeks.

Q.—How many stakes could a man cut down per day?

A.—I cannot say, sir.

Q.—How many were you able to cut down in a day?

A.—I did not count them; because I was not steady at it.

Q.—How many did you ever cut down in one day?

A.—Perhaps I might cut down five or six, perhaps ten, fifteen, or perhaps twenty. I could not say for the truth.

Q.—Can you give us an estimate of the number of stakes in all, that have been cut down?

A.—To the best of my opinion, it is between two and three thousand; may be more; I do not know.

Q.—What kind of stakes were they?

A.—Redwood and pine.

Q.—How long?

A.—From eight to twelve feet.

Q.—How deep were those stakes set in the ground?

A.—From two and one-half to three feet.

Q.—What use was made of those stakes after they were cut down?

A.—Some of them were replaced.

Q.—Did they have to be repointed before they were replaced?

A.—Yes, sir.

Q.—What was done with the others?

A.—They are in the stable-yard, I believe.

Q.—Was any use made of them at all?

A.—Not yet, sir.

Q.—Have those stakes then, those that were taken up and put in the stable-yard, been used since that time?

A.—We took some of them, and sharpened them, to replace those that had been blown down by the wind.

Q.—Did you use any new stakes since then?

A.—No, sir.

Q.—You kept on using the old stakes, after repointing them, as you wanted them?

A.—Yes, sir.

Q.—Under whose orders?

A.—Mr. Popple, the landscape gardener.

Q.—Now, when a stake was cut away from the tree, what became of the tree as a rule?

A.—It stood there alone.

Q.—Were all these trees as able to stand without stakes as well as with?

A.—Before the storm?

Q.—Since the storm?

A.—Some were blown down.

Q.—How many?

A.—I cannot say.

Q.—Can you estimate.

A.—No, sir; because there were more men employed to secure them as well as me.

Q.—To secure them, how?

A.—By bracing them up again.

Q.—How many were employed to secure them?

A.—I cannot tell.

Q.—As many as ten men?

A.—Not so many.

Q.—Five?

A.—Three or four.

Q.—How many did you say were employed?

A.—That I cannot say.

Q.—How long were you employed?

A.—I am occupied till the present time, up to yesterday, in bracing them up with stakes or ties. I am employed at them, or any necessary work of the kind, when trees are wanting stakes.

Q.—Do you refer to trees from which the stakes have been cut away?

A.—What is that?

Q.—Do you mean that you are employed now in securing trees from which stakes have been cut away?

A.—No, sir; trees that want a stake—any of the trees. I am employed to put them to the trees, if they need a stake, and I pin them over again, but not trees that the stakes have been taken away from?

Q.—You have not put any new stakes to any trees that the stakes had been cut away from?

A.—Yes, sir.

Q.—How many?

A.—Not so many.

Q.—Has anybody else been employed in that business besides yourself?

A.—Yes, sir.

Q.—To put stakes to trees that the stakes had been cut away from?

A.—Yes, if they needed it.

Q.—Do you know the value of those stakes?

A.—No, sir; I don't. I expect Superintendent Hall will be able to tell you that.

The Chairman—Would not a gardener, that has worked at the business from the time he was ten years old to his present age, have an idea of the value of stakes?

A.—No, sir. I do not understand the value—what it costs, of course, here.

Q.—You never bought any stakes?

A.—No, sir. The stakes are handed over to me, and I put them to a tree, and I ask no more questions about it.

Mr. Carson—Do you know of any trees having been cut down?

A.—I do, sir.

Q.—How many?

A.—Well, between twelve or fourteen—well, not so many. I do not suppose it is that amount, but some have been taken up on the avenue, and elsewhere, that was decayed.

Q.—Do you know of any healthy trees having been cut down?

A.—Yes, sir.

Q.—About how many?

A.—I cannot give the regular number that was cut down.

Q.—Can you estimate the number?

A.—May be eight, ten or twelve hundred.

Q.—Did you cut any down yourself?

A.—Yes, sir; I did.

Q.—By whose orders?

A.—Mr. Poppie.

Q.—What was done with them?

A.—They were taken out to the beach.

Q.—To what use were they put?

A.—For a brush fence, I understood.

Q.—What kind of trees were they?

A.—Pines, spruce, acacias, and gums.

Q.—How old were they?

A.—Three or four years old.

Q.—Trees that had been planted in the park, and raised there?

A.—Yes, sir; some of them.

Q.—Do you know of any trees dying for want of irrigation?

A.—Some, sir.

Q.—Where?

A.—There, on the park and on the avenue.

Q.—Whose fault was that, if you know?

A.—Well, I cannot say that; whose fault it was.

Q.—Did you ever speak to Mr. Poppie about irrigating?

A.—No, sir; it was not my business.

Q.—Do you know whether he objected to irrigation?

A.—Well, I believe at the first commencement he thought it was better to go without water sometime.

Q.—Did he ever say to you, that if the trees could not get along without water they should die?

A.—I believe he made some little remark of the kind.

Q.—Don't you know they did die?

A.—Yes, sir; I am sure of it.

Q.—But when the water main was laid there he found out his mistake?

A.—Yes, sir.

Q.—And he had to pull the trees up?

A.—Yes, sir. I understood they pulled some of the trees up.

Q.—They were dead?

A.—Yes, sir.

Q.—How many trees were treated that way?

A.—I cannot say.

Q.—Didn't you say twelve or fourteen hundred?

A.—I said there might have been that amount, what was cut down and the trees that died. I said that to you—between twelve and fourteen hundred.

Q.—In the places from which the trees were cut down, were other young trees planted, or not?

A.—Yes, sir.

Q.—In how many instances?

A.—Well, when they were too far apart, as they were planted in a former time, there would be some planted in their place.

Q.—They were planted, in some instances, three to one, that is three young trees for an old one that was cut away?

A.—Yes, sir.

Q.—For what reason?

A.—Well, I suppose, for ornamenting.

Q.—What kind were these young trees?

A.—From spruce to acacias.

Q.—Of the same character, usually, as those that had been cut away?

A.—Yes, sir.

Q.—What was the value of the trees that were cut away?

A.—Well, at the place where they stood, the value was about from five to six dollars.

Q.—Was it not possibly from five to ten dollars?

A.—Yes; if they were removed in a respective place.

Q.—Did not you tell the committee, the other day, that you estimated the trees that were cut down as being worth from five to ten dollars, at least, at the places where they stood, and by removing them to a suitable place they would have a greater value—of from ten to fifteen dollars.

A.—I said the trees, where they stood there, were worth from five to six dollars; but if they were in a respective place they might be worth from ten to fifteen dollars.

Q.—Do you know of any spruce trees having been raised in the nursery, there?

A.—Yes, sir.

Q.—How many?

A.—Sixteen thousand.

Q.—Who planted them?

A.—I did, with the help of other men.

Q.—How many are there now; the whole of them?

A.—Not the whole; some were taken off.

Q.—How many?

A.—I cannot say how many. They were taken out last spring.

Q.—What has become of them?

A.—They are standing there yet.

Q.—Are they of any account now?

A.—No; I do not believe they are.

Q.—Have they perished?

A.—No.

Q.—Are they good for anything now?

A.—They are good to make stakes of.

Q.—Why are they not good for anything else?

A.—Because they are planted too close together, and cannot be taken up to make trees of them.

Q.—They have got too old for transplanting?

A.—They are not fit for it, if they are ten years old; they might be if they were taken up.

Q.—Spruce trees resemble a ramrod, do they not; running up straight before they begin to branch?

A.—Yes, sir; I believe so.

Q.—You say they are fit for stakes?

A.—Yes, sir; they would make nice stakes.

Q.—What is the value of spruce trees two or three years old, raised in the nursery?

A.—About two bits, I guess, is the average price of spruce.

Q.—At two or three years old?

A.—Yes, I guess so. I think you could buy them in San Francisco for that.

Q.—Do you know why these trees were not used in the proper time to make them serviceable in the park?

A.—That I cannot say, but there was a reason why they were not used. I do not know what the reason was they were not used. I know it has been advertised that the park would change with other people for the different lands [plants?]

Q.—Do you know of any spruce trees other than those sixteen thousand having been brought to the park and planted?

A.—Yes, sir; some trees, I believe, a month or two months ago, came, of a different kind from what was in the park before.

Q.—Different from the sixteen thousand trees in question?

A.—Yes, sir.

Q.—That is a couple of months ago?

A.—It might be; I cannot say.

Q.—Were there any other spruce trees brought to the park to be planted within the last two years?

A.—I do not know, sir.

Q.—Do you know of any rustic lumber that has been at the park?

A.—No, sir; I do not know anything about the lumber, except I heard that it was taken out; but I know nothing about it.

Q.—Do you know any that was taken from the park by the gardener and given to a man in town?

A.—I heard so, but I know nothing at all about it.

Q.—I call your attention to your statement before the committee a day or two ago, in which you say you know of rustic lumber taken from the park by the head gardener.

A.—It was not raised on the park. I beg your pardon; the wood I spoke of was lumber taken out of the park, and you asked the man who took it, and I told you the man—I had been informed of that—and I told you the next witness could inform you of it.

Q.—What was his name?

A.—Rosenthal.

Q.—The other day you valued spruce trees—the sixteen thousand, at four bits apiece.

A.—Yes, sir.

Q.—Why do you now change your valuation?

A.—No, sir; I said two bits apiece.

Q.—Your language was, when I asked the value of the sixteen thousand spruce trees—"four bits apiece—eight thousand dollars."

A.—No, sir; I beg pardon; you mentioned the word—I said two bits apiece. It was valued at four thousand dollars.

Q.—Do you know anything of any gum trees brought to the park recently?

A.—Yes, sir. There is gum trees come in; Friday week, I guess it was.

Q.—What has been done with them?

- A.—They are planted out in the sand; some of them, I believe.
 Q.—How old are they?
 A.—I guess six or eight months old.
 Q.—Being so planted in the sand, can they be irrigated there?
 A.—They can by some trouble.
 Q.—Would it be good economy to adopt a system of irrigation for those trees out in the sand?
 A.—I should think it would.
 Q.—Have they irrigated those already planted out there?
 A.—No, sir.
 Q.—Will those trees live without irrigation out there?
 A.—Not if it comes dry weather.
 Q.—In order to put yourself right on the record, Mr. Murphy, I will ask you to repeat the opinion you volunteered as to the motive that "impelled people"—people was the word you used—to plant gum trees out in the sand to die?
 A.—Well, gum trees will not stand in the sand when it is as dry as snuff, as it is sometimes, without irrigation; and another thing the wind is so strong.
 Q.—Is the sand there as dry as snuff?
 A.—It is sometimes.
 Q.—Tell me your opinion about the motive that impelled people to do it.
 A.—The motive?
 Q.—I will read from the statement you made to see if it is right—"My opinion is that the only motive that impels people for doing things, is to put them there to die, in order to be able to purchase more."
 A.—Well, they will have to purchase more if they die.
 Q.—And they will die without irrigation?
 A.—I know it.

CROSS-EXAMINATION.

By Mr. Hall—Do you consider yourself a competent foreman at gardening work?

Answer—Yes, sir.

Q.—Have you applied for such a position at the park, or for advancement in the gardening force?

A.—Yes, sir.

Q.—Did you obtain it?

A.—I did, sir.

Q.—Are you a foreman gardener now?

A.—I am a gardener, not a foreman gardener. I am a gardener.

Q.—Didn't you apply to be advanced?

A.—Yes, sir.

Q.—And to have your pay advanced?

A.—Yes, sir; I did.

Q.—And it was not done?

A.—Yes, sir; it was done.

Q.—How much pay do you receive?

A.—When I applied for more pay I got four bits a day more. I had only two dollars a day, and I got two dollars and fifty cents.

Q.—How much do you get now?

A.—I get fifty-five dollars a month at the present time.

- Q.—Could those stakes have been pulled up as well as cut down?
 A.—No, sir.
 Q.—They could not have been pulled up?
 A.—No, sir; they could not.
 Q.—In how many instances have new stakes, or other stakes, been put in where these you speak of were pulled up?
 A.—At two points upon the avenue, and two points on Tank Hill; what we call Tank Hill.
 Q.—In how many instances? What proportion of the number of instances?
 A.—Well, I do not say what instances, only the ones that were blown down by the wind, and there was nothing to support them without a stake was put to them.
 Q.—You say there was about two or three thousand stakes cut. Now, to how many trees where stakes had been, have new stakes been put?
 A.—I cannot say how many hundred. Mr. ——— sharpened the stakes; some in the avenue and some on Tank Hill.
 Q.—Is it not the fact that no stakes were put to some of the trees on the avenue; that they were tied up with wires?
 A.—There was some, and there was not wire enough, and the great majority were without wires; high, big trees. We got orders to put no wires to any but large ones. The others we had to put a stake to.
 Q.—They were tied by wires and not re-staked?
 A.—Not re-staked, except the large ones; we had not enough stakes [wire?].
 Q.—Do you know the advantage of putting up a tree by wires there, instead of by a stake?
 A.—Yes, sir.
 Q.—There is an advantage in it?
 A.—There is a big one. The first advantage is, if a tree is braced up by wires it will break right where the wire is put; whereas with a stake it goes to the top and keeps it steady.
 Q.—There is an advantage?
 A.—A big advantage.
 Q.—An advantage in the stakes over the wire?
 A.—Yes; because where the wire is, halfway in the center of the tree, the wind strikes the top of the tree, and it is broken halfway down; whereas the stake will have to go with the tree. I do not suppose the wire will keep the top steady. The stake supports the bottom of the tree below as well, and also the top of it.
 Q.—Do you know that where there are large trees of considerable size, as at the park there, they are always staked, or, as a general thing, staked?
 A.—Yes, sir.
 Q.—And not tied up by wires?
 A.—Yes, sir; I have seen them in England tied up by stakes—painted ones, too.
 Q.—Did you ever pull up any of those stakes?
 A.—I did, sir.
 Q.—Were they sound at the bottom?
 A.—They were sound at the bottom—that is, when they had not been left in three or four years; then they would be a little decayed.
 Q.—Was there any considerable portion of them sound?

A.—Yes, sir; from eighteen inches upward; some of them were put down eighteen inches, and the remainder was sound.

Mr. Carson.—They were not put down two or three feet?

A.—Yes, sir; the large big stakes were put down two or three feet.

Q.—And the others eighteen inches?

A.—They were eight-foot stakes.

Q.—Were any of them cut down, too?

A.—Yes, sir.

Q.—They might be pulled up?

A.—No; it would be very hard. An eighteen-inch stake is hard to pull up sometimes as a two-foot stake.

Mr. Hall.—When you tie a tree to a stake, does not the tree rub against the stake?

A.—No, sir; not if it is tied properly.

Q.—You did a great deal of tying there?

A.—Yes; I did.

Q.—You say a stake will not injure a tree by rubbing?

A.—No, sir; if the stake is properly tied. But if you tie it half way up the tree the tree must rub against it, and you must take out the stake, if it is too short, and put in a large one so that it cannot rub to it.

Q.—How tall are those trees?

A.—Ten or twelve feet high, some of them twenty feet high. There are gums on the avenue twenty feet high.

Q.—Then the stakes have to be tall enough to go to the top of the tree?

A.—You cannot allow the gums to go over the stake or they will break off. I do not suppose they can ever grow upon the avenue, or upon the park, because the wind is too strong.

Q.—Are there no gums on the park which are over twelve feet high?

A.—Yes, sir; twenty feet high.

Q.—Are they in good shape?

A.—Very good, sir.

Q.—Where they are located in the main avenue, have they broke?

A.—I said they could not be left to go over twelve feet high there, the storm is too heavy for that.

Q.—You say the gums must not be allowed to go over twelve feet high for the reason that they will be blown out of shape?

A.—Yes, sir.

Q.—In that locality?

A.—Yes, sir.

Q.—You say there are gums in the avenue twenty feet high?

A.—Yes, sir; there are some gums on the avenue twenty feet high, but what are you going to make of them? After they get over twelve feet they have gone up in spires and are whipped right over, and you cannot make a good tree out of them—without you support them.

Q.—How would you support a tree that is over twelve feet?

A.—I would take the head off and let it stiffen itself in the bottom—support itself.

RE-DIRECT EXAMINATION.

By Mr. Carson.—Have you always occupied the position of gardener?

Answer—No, sir; I did not. I went in there when there was no gardening done. I went in and worked at the grading.

Q.—How long have you been a gardener at the park?

A.—I have been a gardener since the spring of eighteen hundred and seventy-two, I believe it is.

Q.—Who employed you as gardener?

A.—Mr. Hall gave me that portion of the business to do. The first thing was to plant trees.

Q.—Did he inquire into your competency at that time?

A.—I do not suppose he did.

Q.—Did you explain to him your competency?

A.—He proved it, I believe.

RECROSS-EXAMINATION.

By Mr. Hall.—You stated that these trees, the gum trees, will die out in that sand?

Answer—Yes, sir; I do.

Q.—If it is irrigated?

A.—If it is not irrigated, because—

Q.—One moment; just answer my questions. Were you aware that ten or eleven thousand trees were planted out there a year ago, in that sand?

A.—Yes, sir; I am.

Q.—Young gum trees?

A.—Yes, sir.

Q.—Do you know whether they are dead?

A.—Well, sir; some of them are dead.

Q.—What proportion of them?

A.—A good portion of them, I believe.

Q.—Have you ever gone and counted.

A.—No; I have never gone and counted them, but I passed there several times.

Q.—You have driven past them?

A.—I walked across the sand.

Q.—Have you really examined them, to see how many are dead?

A.—No; I did not take such an interest in the trees as that, out there.

Q.—About how many are living?

A.—That I cannot say. I have not been out there in twelve months.

Q.—You just remarked that the trees were only planted fourteen months ago?

A.—Yes; and you could plant them yesterday, and this day week they would be dead.

On motion of Mr. Carson, the committee here took a recess until two o'clock P. M.

AFTERNOON SESSION.

The committee met pursuant to adjournment; all present except Mr. Barber.

[Mr. Broderick in the chair.]

Mr. Carson.—I wish to state that I expected to prove by Mr. Brady

that a particular sum of five hundred dollars had been paid to a certain individual on account of some contract or payment for extra work done upon the park. Mr. Brady was here a few minutes ago, and I invited him in here. I came in and turned to look for him, and he was gone. Mr. Sullivan states to me that he has been subpoenaed. I do not propose to attempt to enforce any subpoenas to-day, but this is a matter of apparently considerable importance. As I understood, there was one thousand seven hundred and seventeen dollars and forty-eight cents paid for some extra work done by F. B. Kenny. There was an assignment to Brady, and in order to obtain payment of that money, Kenny, and another person, whose name I will not now mention, accompanied Brady to the Treasurer's office, and when the money was drawn the five hundred dollars was paid to this other person. There is a number of explanations that possibly can be made as to the disposition of this five hundred dollars. The primary fact of the payment I expected to prove by Mr. Brady. I do not propose to enforce any subpoena to-day, though there was a matter of bids—blank bids in some instances, that Mr. Brady, probably, could throw some light upon, and about which I would desire very much to have his testimony before this committee; and I now give you notice, that upon assembling in Sacramento I shall insist, in justice to the committee, and upon the statements that have been made to the committee concerning these matters, and with proper regard to the interests of the officers of the park—I shall insist, and give notice of my intention now, upon the presence of Brady in Sacramento, if he refuses to attend here.

The Chairman—Let a record be made of the notice.

Mr. Carson—I believe Commissioner Eugene L. Sullivan desires to testify.

Mr. Eugene L. Sullivan—I do not desire to, but if I am wanted, I ask that you will take my testimony now, and let me go.

EUGENE L. SULLIVAN, re-called, testified as follows:

Mr. Carson—In your examination, yesterday, I called your attention to the disbursement of eight thousand nine hundred and seventy-three dollars and seventeen cents for street account, and the receipt, by the Commission, of two thousand nine hundred and two dollars and eighty-six cents on street account. I also call your attention to the amendatory law of the thirtieth of March, eighteen hundred and seventy-two, providing for a deposit, by the property owners, in the Park Improvement Fund, of an amount equal to that proposed to be expended by the Commission, where the improvements of the streets or avenues leading to the park, or outside of the park property, could be opened. The committee, on last evening, made an examination of the papers, accounts, receipts, etc., connected with these receipts and disbursements, and the committee appeared to be satisfied with all, with the exception of one amount of two thousand five hundred dollars. On the tenth of April, eighteen hundred and seventy-three, Mr. M. H. Terrell gave a receipt to the Commissioners for two thousand five hundred dollars, payment of full proportion given by them for grading, etc. [Reads it.] I find in the books of the Commission no entry, whatever, of an equivalent, under that third section of the law of March thirtieth, eighteen hundred and seventy-two, as having been received by the Commissioners. Be kind enough to explain, or give the reason why that amount was not received?

A.—As near as I can remember the circumstances, they were these: The road from Point Lobos to the park was very much desired by a great many people—was wanted by everybody who looked at it to open this First Avenue. The owners of the property were very anxious that we should pay half of it. We had been called upon very frequently, before and since, as they knew, by looking at the law, we had power to allow twenty thousand dollars. We never have done it, except in two instances—one at the entrance to the park, on Baker street, and the other this instance I am speaking about. Upon inquiry we found that the opening of and macadamizing this street would cost, my impression is, twenty thousand dollars; at any rate, a large amount, and we refused to allow half of that at all; but after the consideration the Commissioners agreed that when this road was opened, completed, and finished, we would allow the sum of two thousand five hundred dollars. I remember, before it was completed, the Commissioners were applied to to advance the two thousand five hundred dollars, and refused till it was finished. It was finished, and we then paid them two thousand five hundred dollars. Perhaps, technically, before paying it, we should have made them deposit this two thousand five hundred dollars, and then we should have to give them five thousand dollars.

Q.—In order to comply strictly with the law?

A.—Strictly with the law. Of course, the law authorized us to give more than that, but we made the best bargain we could. There may be a technical violation of the law in our not making them first pay us two thousand five hundred dollars, and then we pay them five thousand dollars.

Q.—Without any equivalent deposited in the Park Fund?

A.—Yes, sir.

Q.—That is your explanation?

A.—Yes, sir.

Q.—I find on the minutes of the Board of Park Commissioners, under date of April ninth, eighteen hundred and seventy-three, a special meeting, the following: "On motion of S. F. Butterworth, the Secretary is instructed to draw a demand upon the treasury, in favor of M. H. Terrell, the sum of twenty-five hundred dollars, payment in full, proportion of the due bill for improving of a certain approach to the park, to wit: First Avenue, from Point Lobos Avenue to the park, authorized by Act of the Legislature of the State of California, passed March thirteenth, eighteen hundred and seventy-two, and, according to the agreement of said Park Commissioners with said Terrell, to receive and receipt for the same." Is there any further explanation you desire to make in this connection?

A.—No, sir.

Q.—Do you know anything of the agreement that was made with Terrell, referred to in this resolution?

A.—I do not think there was any written agreement made with him at all. As I stated, he or the property owners, I do not remember who, wished us to pay half the improvement, knowing we were authorized to do so, and we refused; but did agree verbally, probably, because I have no recollection of an instrument in writing, that when they got the road done we would allow them twenty-five hundred dollars; and in pursuance, probably, of that agreement Mr. Butterworth made that motion.

Q.—One more question I want to ask you, partly in justification of

yourself. Do you own any lands adjoining the park, fronting on or near it?

A.—I have only one piece fronting on it, a small piece at the corner of Stanyan and Waller streets.

Q.—How large?

A.—It might be about two fifty-varas.

Q.—Have you any other lands in the immediate vicinity of the park?

A.—Have some further south, but none fronting on the park.

Q.—How far south of the park?

A.—I think none nearer than about two blocks; there may be some within one block; I can tell by the map.

Q.—How much do you own there, sir?

A.—Well, I suppose twenty acres originally. It is now less. I sold some at different times, some years ago.

Q.—So it is now much less?

A.—Yes, sir. It has been suggested, or I have heard it stated, that it is rumored that I took so much interest in having the sands reclaimed south of the park, that I was personally interested in that large body of land there. If it has been so suggested, I wish to state that I do not own a foot of that at all—all that was reclaimed south of the park, under Mr. Hall's private contract, which I was anxious to have done for the benefit of the park.

The Chairman—Mr. Hall asks permission to make a statement in regard to some papers.

Mr. Hall—As to what Mr. Carson said about five hundred dollars being paid for extra work by Mr. Kenny on the park—that reflects somewhat on myself as Superintendent, and I would like briefly to allude to these papers, which are my reports, and Mr. Kenny's bill. Of course it will go in evidence hereafter. I should like to allude to the amounts, and the action I took on them, if there is no objection.

Mr. Carson—I object to it at this time, for these reasons: Had Mr. Brady carried out the apparent intention of his visit to this chamber this afternoon, and testified to the facts he has heretofore stated to this committee, I would have no objection in the world; but I do not like to place Mr. Hall in the peculiar position of defending himself, before he has been charged with anything; and certainly, I would state this much, I did not refer to Mr. Hall as the party who received the money from Mr. Brady or Mr. Kenny direct. I do not desire Mr. Hall shall give us any explanation in defense. Let us first have the facts asserted under oath here, and then he can make his explanations.

Mr. Hall—I would be perfectly satisfied with Mr. Carson's standing in the matter, if it were not that he has the privilege of making statements in advance, when it is denied to me. If Mr. Carson had not stated what he expected to prove by Mr. Brady, I would not object.

Mr. Carson—I stated, candidly, that my object was not to cast any imputation upon Mr. Hall, or any one. But Mr. Brady now shows an indisposition to testify here, and I desire that he should gain no advantage by absenting himself. That was my object in stating it.

Mr. Hall—The public might have been informed of that at some future time.

Mr. Carson—I will claim to be the best judge of my course.

Mr. Hall—I do not want to appear as in opposition to Mr. Carson.

I can set myself right in the future, but it may go to the public that the five hundred dollars was paid, and supposed to be paid to me.

Mr. Carson—Mr. Hall charged me yesterday with being unfair; I think his statement now the unfairest thing I have heard; I have clearly and definitely disavowed any intention of pointing to Mr. Hall as the man who received this money. Now, if Mr. Hall will force himself into the position that he is charged with being the party who did get the money, he will have to take that position. All right, let him put himself there, if he will. I have told him that I did not mean him, that he was not the party that was mentioned; does the gentleman want anything more? If he desires to put himself in that position and confess judgment here, all right.

Mr. Hall—I would rather not be in any such position. I do not want to put myself in an attitude hostile to Mr. Carson.

The Chairman—The first paper, as represented on the account of Mr. Kenny, for extra work done on the avenue, signed by Mr. Hall, engineer, dated December eighteenth, eighteen hundred and seventy-one.

The second is a statement of the account of the San Francisco Park Commissioners to B. Kenny, Dr., for extra work on the avenue, as revised by Wm. Hammond Hall, engineer, dated December eighteenth, eighteen hundred and seventy-one; under that same indorsement is "Items of account, not approved."

The third is to the Hon. Board of Park Commissioners, Kenny's second bill for extra work.

The fourth is Kenny's extra work bill rendered in December, eighteen hundred and seventy-one.

The fifth is a statement of the account of the Park Commissioners to B. Kenny, Dr., for all the extra work in sub-grading claimed by him to date, October first, eighteen hundred and seventy-two, as revised by Wm. Hammond Hall, engineer.

Ordered paid by the Commissioners, October second, eighteen hundred and seventy-two, placed on file to accompany report of even date herewith.

The next document is the communication of the Superintendent with B. Kenny, in relation to work on Oak and Baker streets, January twenty-fifth, eighteen hundred and seventy-three.

The next is a report of the Superintendent, stating that the contract entered into between B. Kenny and the Park Commissioners, under contract dated July third, eighteen hundred and seventy-three, upon grading and macadamizing Oak and Baker streets, was completed. Ordered on file February tenth, eighteen hundred and seventy-three.

The next is voucher number one hundred and twenty, B. Kenny, eighteen hundred and seventy-one; sub-grading, etc., eight hundred and fifty-two dollars and fifty cents. Signed by Commissioners McDermott and O'Connell, December nineteenth, eighteen hundred and seventy-one. Approved: William Alvord, Mayor.

The Chairman put the question, on allowing Mr. Hall to explain the different documents to the committee at the present time, and the vote was unanimously in the negative.

DANIEL SULLIVAN, called and sworn, testified as follows:

Mr. Carson—What is your business?

Answer—I work in the park for the gardener.

Q.—Are you a gardener?
 A.—No, sir.
 Q.—You are the gardener's assistant, I suppose?
 A.—Yes, sir; I work around there.
 Q.—Where do you live?
 A.—In Hayes Valley.
 Q.—How long have you been employed to work there?
 A.—Two years.
 Q.—Do you know anything about any stakes or trees having been cut down?
 A.—I cut down trees myself.
 Q.—By whose orders?
 A.—The head gardener.
 Q.—Who is he?
 A.—Mr. Poppie.
 Q.—When did you do this cutting?
 A.—I believe about a month ago?
 Q.—Did you do any before that?
 A.—No.
 Q.—How many trees did you yourself cut down under those orders?
 A.—I could not exactly tell; sixty, seventy, eighty—somewhere about that.
 Q.—Do you know of any other trees that were cut down by any one besides yourself?
 A.—Yes; there has been more cut down.
 Q.—Can you tell how many?
 A.—I could not tell you.
 Q.—What was done with the trees that were cut down?
 A.—I believe they were taken out to the beach.
 Q.—Do you know it?
 A.—I seen them go in a wagon.
 Q.—Took the trees on the sand beach?
 A.—Yes.
 Q.—Do you know what use was made of them?
 A.—I could not tell; I never was out there.
 Q.—What kind of trees were they?
 A.—Pine, gum, and spruce.
 Q.—How old were they, as a rule?
 A.—I expect they were two or three years old. I could not exactly tell you.
 Q.—Were they live trees or dead?
 A.—Live trees.
 Q.—What condition were they in?
 A.—In good condition.
 Q.—Were they among the best in the park?
 A.—Yes; they were good trees.
 Q.—Do you know why they were cut down?
 A.—I could not tell you.
 Q.—You simply obeyed orders?
 A.—Yes, sir.
 Q.—In the places where these trees were cut down, were any other trees planted?
 A.—There was in some places, more places they was not.
 Q.—To what extent, what number?
 A.—That I could not tell.

Q.—Can't you approximate it, can't you come near it?
 A.—I could not.
 Q.—Did you plant any trees in places where other trees had been cut away?
 A.—I did, a few.
 Q.—How many?
 A.—I could not tell you.
 Q.—Did you plant a hundred?
 A.—Yes; I might have planted a hundred, something that way.
 Q.—What kind did you plant?
 A.—Gums, pine and spruce.
 Q.—That is the same kind of trees that had been previously cut away?
 A.—Pretty near the same.
 Q.—How old were the trees you planted in these places?
 A.—That I could not tell you.
 Q.—Had you any special instruction in planting?
 A.—I did.
 Q.—What was it?
 A.—Not to plant them deep.
 Q.—Who gave that order?
 A.—The boss gardener.
 Q.—Did you protest against that instruction being carried out?
 A.—I said I should not plant so high.
 Q.—What did he say?
 A.—Well, he said it was according to orders.
 Q.—Did he express himself any other way?
 A.—Yes; he said if they could not live that way they could die.
 Q.—Did he go further on that same subject, in reference to their being planted down?
 A.—Yes, sir; I saw him plant trees about two days ago, and after they were planted they fell down again.
 Q.—Why?
 A.—They were planted too high.
 Q.—Did he not tell you he did not care whether they were planted down or not?
 A.—Not then.
 Q.—When did he tell you that, if at all?
 A.—Oh, several times.
 Q.—What was the lowest depth at which you planted these trees you have spoken about?
 A.—Well, the most was planted on the top of the ground.
 Q.—How do you mean on top of the ground?
 A.—No depth at all, just left on top of the ground, pretty near.
 Q.—How many inches?
 A.—Six or seven inches.
 Q.—Is that enough—the usual depth?
 A.—No, sir; not half enough.
 Q.—When you had planted some of those trees, how long did they remain there?
 A.—I planted some last Thursday, and they went down right away.
 Q.—What do you mean by right away?
 A.—About a half an hour after I left.
 Q.—How deep did you plant those trees?

A.—May be about three inches.
 Q.—Was that the depth they were ordered to be planted?
 A.—It was himself that planted them; I was with him.
 Q.—Poppie?
 A.—Yes; he was planting them himself, and I was fixing them with the shovel around, that day.
 Q.—And they fell down?
 A.—Yes, sir.
 Q.—How many?
 A.—I seen three or four falling down right away.
 Q.—Before you got there with the others?
 A.—Yes, sir.
 Q.—When did this occur?
 A.—Last Thursday.
 Q.—How frequently have such occurrences taken place?
 A.—Pretty often.
 Q.—How often? Poppie has been there some eight months, has he not?
 A.—Yes, sir.
 Q.—How long has this business been going on?
 A.—Pretty near all winter. Trees was planted all winter.
 Q.—Mr. Poppie, you would have us understand, has adopted this plan of planting trees at a very small depth?
 A.—Yes, sir.
 Q.—With the result you have just mentioned, of the trees falling down?
 A.—Yes, sir.

FREDERICK WILLIAM POPPIE, called and sworn:

Mr. Carson—What is your business?

Answer—I am a gardener.

Q.—What kind of a gardener?

A.—A landscape gardener; that is my specialty. I have been educated at the Royal Educational College, in Berlin, Prussia.

Q.—How long have you practiced that profession?

A.—It is thirty-seven years ago.

Q.—You have been employed, I believe, in the Central Park in New York?

A.—Not in the Central Park, but by the Chief Engineer of the Central Park, both privately, and afterwards for the State of New York, at Poughkeepsie; at Prospect Park, Brooklyn, I was selected and required to come down from Poughkeepsie to give advice, and I planned and made those arrangements and plans in regard to trees in that park. I was afterwards specially engaged to come to San Francisco.

Q.—You came here, I understand, with letters of recommendation from Olmsted, the Superintendent of Central Park of New York.

A.—Yes, sir.

Mr. Carson—Considering the testimony already taken by the committee in regard to the course of proceeding by Poppie, a citizen claiming to be an expert, and who complains that Poppie is not competent, desires to examine Mr. Poppie upon his qualifications. I must confess I do not consider myself competent to do anything of that kind, and I think it well, in the interest of the people, that the committee should call into requisition the services of Mr. Fautsch,

in that regard. Therefore I move that he be requested to examine this witness.

The Chairman—Would it not be well, first, for Fautsch to show the fact that he is an expert?

The witness, Poppie, is here temporarily withdrawn.

FRANCIS EUGENE FAUTSCH, called and sworn, testified as follows:

Mr. Carson—What is your business?

Answer—Landscape gardener.

Q.—How long have you practiced that profession?

A.—I practiced in San Francisco, I suppose, since eighteen hundred and fifty-seven.

Q.—Before that time where, if at all?

A.—Before that time I did not practice constantly, because I was in the war with Mexico between fifteen and eighteen months. Then I came to California and went to gold mining. There was no business of the kind at that time here. Before that I was raised at home with my own people at that business, as was my father, and grandfather, and great-grandfather.

Mr. Carson—Now I move that Mr. Fautsch be authorized to interrogate Mr. Poppie in regard to his manner of planting the Golden Gate Park, etc.

The motion was carried.

F. W. POPPIE recalled, testified as follows:

Mr. Fautsch—Do you regard landscape gardening as an art or a science?

Answer—An art founded on science.

Q.—How many styles of landscape gardening are there?

A.—Well, we recognize the antique, the regular or French style, and the free or English style.

Q.—Delineate the form of each one of them—the character and form of each one of those styles of gardening?

A.—The antique style we find in Europe, and described in the Roman classics, which is abandoned long ago. The next style is the French; Le Noté, the celebrated architect originated that style. We see it, on a small scale, repeated opposite here, on Portsmouth Square, in grounds cut up in rectangular ways, and diagonal ways, trees clipped, and statuary, and all sorts of artificial ornaments introduced. Afterwards that was abandoned. There was a celebrated architect under Louis XIV., who was at the same time a landscape gardener, or may be called so, though he used no landscape, only yews and thorns planted and trimmed. The English style is the present style of all the parks we are laying out. It has been introduced and has superseded entirely the old way. There is a modification of the French style, called the Italian, which we see introduced and still kept up in New Orleans. We have, of course, clipped out from trees, in all sorts of fantastic shape, haystack trees, and stilton cheese, and all such shapes. The clipping style it might be called.

Q.—That style is not used in America?

A.—No, except in an English park, and once in Massachusetts.

Q.—Is that a full description of all the styles you have got?

A.—I don't know of any other.

Q.—Where was the English style first introduced?

A.—[After referring to certain authorities whose names the reporter cannot undertake to reproduce]—In England.

Q.—That is where the park comes from?

A.—Yes, sir.

Q.—There are five styles of garden?

A.—Well, there is the kitchen garden. I did not come here to be accurate, nor to be examined.

Q.—What are the specific rules of laying out grounds as an art?

A.—There cannot be any more specific rules than in chiseling out a marble statue or painting; it must be left optional with the artist.

Q.—There are no rules?

A.—There is—general rules: one is to make a place look larger, instead of smaller, by not planting too many trees to obstruct the views, in hiding the unsightly places, and making everything look more pleasant; that is, there are general rules. Some others turn their attention here and there, as circumstances suggest, and the idea depends entirely upon the qualifications of the man who does such work. Sometimes he is deficient.

Mr. Fautsch—He don't know any more rules, and there are many.

A.—Never too old to learn.

Mr. Carson—Ask him if there is such and such a rule, if you wish, but don't correct him.

Mr. Fautsch—Is there such rule in gardening, like every art in the fine arts, as unity, variety, and harmony?

A.—There is.

Q.—Why didn't you say so first.

A.—Well, if you ask me a question to illustrate this, I can answer it.

Q.—Can you explain the character of each one of them?

A.—Well, I understand I am to be examined, not as to my qualifications in general, but principally in relation to this peculiar park in San Francisco, which is an uncommon work, such as never was undertaken anywhere else and never will be again. Here is one thing that puts a barrier for action at once: that is, the irresistible action of the winds. It would therefore be wrong to plant trees and shrubs which will not resist the combined action of the wind, the pressure of the air, and accompanying moisture of heavy fogs on the wind side. Therefore we must plant those plants—which are very few—that will withstand this, which are pines, spruces, and a few acacias. Those plants which will not resist this tremendous action have to be reserved for planting on the lee side of those. That is the reason that unnecessary trees must be removed, and in the cheapest way they can be removed, to make room for such plants as we find there, and place nowhere else. Then, in regard to combining variety and harmony, we must not plant trees which will produce harsh contrasts different from beauty. But harmony is a thing which is talked about a great deal and understood very little. It is a cultivated taste, and requires long experience and knowledge of the qualities and appearance of trees to produce it.

Q.—What do you understand by harmony in tree-planting? Describe the trees you would plant to produce it.

A.—Harmony is the composition of colors and forms, as found in pictures. Not in that [pointing to pictures of Washington and a horse hanging in the room], but in some good pictures. It is the same in plants. There should not be harsh contrasts. There may be

contrasts that would not strike one favorably at first, but after a while a person will get educated to the matter. It is wrong, for instance, to plant a weeping willow, and then alongside of or next to it a Lombardy poplar. It is a contrast, and not a harmonious one. Though we have here blue gums and spruces together, yet they never will harmonize.

Q.—You are right, virtually, on that point. It is more or less the same in regard to pines. The Monterey pine is the main tree called for, for forests, where we have to plant thick masses for back-grounds. They have to be planted in rows or masses to shelter, from the winds, plants coming from foreign countries, which are placed in the inner rows, producing artificially what nature herself provides. As to the character or form of trees, in how many particulars do they deviate? Describe them.

A.—As I have never been asked the question before, I could not state the number of forms, and I never counted them. Nature is such a wonderful book that no man can tell the number; I can only allude to some of the most characteristic forms.

Q.—How many different characters of form are there?

A.—Well, there is the conical, the globular, and the drooping. I have never passed such an examination as this before.

Q.—In regard to the colors of foliage, how are they divided?

A.—Well, there is all the colors of the rainbow, and a good many mixtures and transitions from one color to another—we have every shade, and in the park we have gums with almost perfectly blue foliage, we have the Spanish green, which is so pleasing to weak eyes, and a yellowish green, which is almost completely yellow, and a grayish green, as the acacia. [Witness here gives the botanical names of a large number of trees and plants.] You ask about colors, you have oaks with a scarlet red foliage, and dark green, middle green, and light green, those are simply different shades of green; but green is green, whether it be light or dark.

Q.—Are not these colors divided into so many parts?

A.—The dark green, middle green, and the light green, and the intervening transitions.

Q.—Are not these the main divisions?

A.—Of course, you have always the two extremes, with a middle between them.

Q.—In regard to scenery, how would you paint that?

A.—The form of scenery depends altogether upon the grounds for the scenery.

Q.—Here is a house say, and you want to form a distance?

A.—That depends, of course, on the grounds. The scenery on a plain is different from rocky and hilly land, or undulating ground.

Q.—In regard to the colors—I do not ask about the trees?

A.—Oh! I should think the dark colors would have to go behind, as a back-ground, to bring the lighter colors more into relief, besides having some darker colors in front to make a variety.

Q.—What authority do you have to guide you?

A.—I do not recognize any authority; I am my own authority.

Q.—You consult your own taste alone?

A.—Yes, sir, precisely; the result of my study.

Q.—Are not the authorities, in regard to scenery, right the other way from what you state?

A.—Well, if they are, it is a matter of opinion and taste, and de

gustibus non est disputandum, as the Romans say; it is not because one finds a thing better suited than another to his taste that others should be expected to accept it.

Q.—Do you set up your opinion against standard authorities on that point?

A.—I do. Those men have lived before me, who have become recognized authority in such matters; they have been men who were born, and studied the same as I have, and they have lived and died. I consider myself as good authority as they, and I am not dead yet. These men had to learn what I learned, and am still learning, in my own way. I claim the privilege of being original; that was mentioned especially in Mr. Olmsted's recommendation—it was one of my recommendations.

Mr. Carson—I shall have to limit you somewhat in your answers, because this is very expensive to the State. I understand you to say that you adopt your own course and follow your own opinions without any regard whatever to the authorities in the business?

A.—I do not recognize any authority; I take advice wherever I can get it, but I recognize no authority.

Mr. Fautsch—In regard to the shape, or the character of trees, for instance, on undulating ground, on plains, and on hilly ground, what kind of trees would you plant?

A.—Allow me three words as a prelude, in order that we can perfectly understand the matter. By traveling, studying, and examining natural scenery, we find that wherever there is rocky, or cliff land, nature clothes them with certain varieties of trees, such as cedars and pines, whilst on the level ground the foliage of the trees is that of round-headed trees, for instance, beach, oak, and such trees, consequently we must imitate nature in that. I find here, in America, where the Norway spruce and foreign pines were introduced, at a comparatively recent date, they have been planted, as a rarity, right in the middle of flat land, and there admired as beautiful trees; but in my opinion such a thing is an injury to the scenery.

Q.—Why is it that pines, and trees of that family, are planted on high ground?

A.—It seems to be the law of nature to do so.

Q.—There must be some reason?

A.—You must infer there is, for nature creates nothing in vain. On cliff land, the winds are sharper than on the plains, and the foliage of the trees would not, on that account, be so great. I must confess that I never was consulted by nature when she formed these things, so I cannot state the reason; I only find that she has done so.

Q.—But there must be a reason why a landscape gardener plants these trees on elevated ground?

A.—I find that the most celebrated landscape painters copy such scenes from nature.

Q.—Is not a great deal of landscape gardening copied from paintings?

A.—I do not think that landscape gardening comes just to the same scale as landscape painting; they both are supposed to copy from nature, and I do not see why we should go at it in a round-about way, and take, as our models, mere daubings of a painter, when we can go directly to nature.

Q.—What is the difference between a landscape painter and a gardener?

A.—The difference is this; that the landscape painter represents an image on a reduced scale, and on a flat, smooth piece of canvass, with colors; whilst the landscape gardener has to produce the thing itself, with the same material that nature did it. Both have to study nature in her plastic working, and try, to the best of their ability, and according to the means that they are allowed, to imitate her.

Q.—Which profession comes the nearest to it?

A.—Schiller, Goethe, and others have written about that, and they have always placed landscape gardening in the same rank with architecture and painting; they all call it a plastic art, which is a proper nomenclature.

Q.—In regard to scientific arts, what is it necessary for the landscape gardener to know?

A.—First he must know the material he has to work with, as a mechanic has to know his tools; then he must learn to place the material properly, to combine it according to the means he has, both locally and financially. Then he must understand surveying and drawing, to get a certain idea which is generally called a plan, but which is never carried out as it is drawn, never could be, and never will be. All these plans give only a general idea of what is intended to be done, and while the work is under way there will be a great many deviations from the lines laid down on the paper, in consequence of things which are found out under ground, and which could not be seen before the ground was stirred, and other considerations which crop up unexpectedly.

Q.—Must he not also know in regard to the climate?

A.—If that was necessary, then study would be of no use. If we had to have practical experience of the climate of the world we should have to travel many years before we could do anything else, but it is many times the case that a gardener knows more about the climate of a certain locality than the people who live there.

Q.—Where he has to operate he must know exactly the climate?

A.—Exactly, or approximately. It may be that is the reason why people ask what is your experience before they allow him to bring it into practice; but some men gain experience quicker than others, because they have already so much stored up.

Q.—In regard, for instance, to that locality, he must know exactly the climate to know what tree will live or will not, before undertaking to plant a tree?

A.—Where could a man learn that I should like to know?

Mr. Carson—You are asked the question; just answer it.

A.—I should say, no; he could not. What never has been tried no man can know. It is impossible. This park was an experimental undertaking from the start, and due allowance must be had for possible mistakes.

Q.—But suppose you had had the experience beforehand, could not you have avoided mistakes?

A.—I could not, and no man else, because nothing had been planted there before, and no man could know what would grow. Where could he get the experience?

Q.—It seems to me such experience has been had all over the world. There are many sand drifts on the coasts of Europe.

A.—I know something about them, or used to. There was the Puckler Muskaw (?), which belongs now to the Prince of the Netherlands. It was a barren, sandy waste, and has been sold for nine

millions to the Prince of the Netherlands. Then there is [an unpronounceable name]. Then Prince Charles, of Prussia, laid out his park at Glinike Potsdam. These and the "Tier (?) Garten," in Berlin, are the only instances where parks have been laid out in this drifting sand. But they are all different from what this is. There is no sea breeze acting with such force and sweeping fogs there as here. Besides, these places laid in latitude about twenty-five or twenty-eight degrees further north than we are here, in an entirely different climate, where they have long cold winters, and a great deal of snow covers the ground in winter, and short warm summers, making the climate different from what it is here, where there are no summers, but everlasting fall.

Q.—You have no experience here in regard to the climate, have you?

A.—Well, I have had experience of the results; if I had not learned before to judge, then I would be a good deal worse off than I am now; but I had prepared sufficiently, and upon the strength of that I was recommended to come here. If it was a bad selection, I am sorry for it.

Q.—In an artistical point of view, what are the rules and principle of planting trees in masses or singly?

A.—Some in masses, and some singly.

Q.—What do you mean?

A.—Not a hash; a tree of one kind here, and the next tree another, and so on, but a number of trees in a mass, of the same kind, together—and then a mass of some other kind planted next to it, perhaps.

Q.—High trees and low trees?

A.—No; that would be ridiculous and absurd.

Q.—What name do you give it in planting?

A.—Grouping and massing.

Q.—What do you understand by grouping?

A.—To bring such trees, with regard to size, shapes, and colors, together, as will form a beautiful group, pleasant to look at, and to be painted by a painter.

Q.—How many trees form a group?

A.—The number is ———.

Q.—Then you might form a forest sometimes?

A.—Yes; and sometimes only a grove, and sometimes only what I call clumps.

Q.—Are there any clumps in parks?

A.—Oh, yes; only too many; that is the reason why so many trees have to be removed.

Q.—What do you call those trees in regard to their form?

A.—Those trees that stand in the avenue there, the Grand Avenue, as it is called, those are the pines and spruces.

Q.—[Interrupting]—In regard to the form, the name which landscape gardeners give to it, clumps, or what?

A.—No; I call them the stock, or sticks; they have not been planted there with regard to any landscape effect, nor is it intended that they should remain there forever, they are only intended to start a stock to work upon to regulate the improvements, and they are to be removed whenever it is necessary, and to be replaced by others whenever it is found to be necessary.

Q.—These long lines of trees on the main avenue, from one end to the other, are not they called belts of trees?

A.—No, sir; belts, so called, are the thick planting of trees around the outskirts of the park, or other inclosure, for the purpose of covering the outskirts; there is no such thing done in the avenue, it is not what is called a belt. There are openings left in them to afford a view from the avenue outside, and from the outside into the avenue. Belts are planted for the purpose of excluding the inside from the outside, to guard against being observed by outsiders who have no business to see what is going on.

Q.—This long line of trees outside of the avenue, is not this a belt?

A.—No, sir; they are put there in order to shelter and to break the wind from other plants, but not to hide the inside; they never would do that by means of such a belt, because a tree will eventually drop the lower branches and permit the parties outside to look beneath the tree into the park.

Q.—The first rule in every landscape garden, or every landscape-garden plantation, is never to plant in a belt or in a clump?

A.—I do not understand the meaning of what you say.

Q.—Is that the rule, not to plant in belts or clumps?

A.—The first rule is, to do whatever is necessary to be done; if a belt is necessary, you have to plant a belt; and if it is not necessary, you do not plant it.

Q.—What is the rule, as laid down by the authorities?

A.—I told you before that I do not recognize any authority.

Q.—Oh, you are original?

A.—Yes, sir; I beg leave to have that privilege here in a free country.

Q.—In regard to the shape of the ground here, and the roads, what kind of a place would you select; for instance—they have got the ground laid out—with respect to roads, would you seek elevated or low grounds, for the roads?

A.—I would follow as much as possible without detriment to the ultimate effect, and to convenience the shape of the ground; but where it is absolutely necessary that there is to be a change in the ground, why then the same as if there is a defect in the body, why it has to be removed, whether it hurts or not.

Q.—If there is an elevated portion of the park, is it necessary to remove that; the roads here are made to run over all the elevated portion of the park, and cutting through all the hills; now is that proper?

A.—It is proper, if it had been done in the proper way, but it has not been with regard to all the hills, especially on this side, coming here into the city.

Q.—Do you think that what has been done is right?

A.—Yes, sir; I think it is right. If it can be proved to be wrong, why then it is wrong; but I do not sit in judgment on those who are supposed to be my superiors,

Q.—Suppose they cut through a hill, and after they cut through it, they smooth it off?

A.—That would answer the purpose in some cases.

Q.—Is that the natural form, and is it best to leave it in that natural shape, or is further work necessary to complete it?

A.—There are some places that are not completed yet; and I should not be a judge of that until the work is finished.

Q.—I ask you in regard to where the roads have been run, are they properly located?

A.—Well, where the roads run now, I think is about the best that could be done, as I judge, because in some places there was too great a scarcity of money to do the work that might be necessary, and in the other place a connection between one part and another would appear to me impossible, without doing that which has been done. They are doing one part of the work now, and leaving the rest to be done, when they get time and money to finish them; though it is not everybody that can see so far ahead, it all comes out after a while when people become familiar with it.

Q.—But would you have pursued that course in laying out the park, before any work was done upon it?

A.—How are we to judge of what a building will be, before it is finished; work was done upon this park for a few years with very little money, and it is very hard to say whether fifty dollars or one hundred dollars could have been saved in one place and another; no doubt some such picayunish things might be picked out.

Q.—In regard to the style of the ground, and in regard to the style of architecture, in what style could that natural location have been laid out in a park?

A.—What architecture do you mean? The only architecture there, I believe, is the little office.

Q.—No, I mean the architectural style of laying out the ground.

A.—The architectural style of it, I never heard of that before.

Q.—Are not landscape gardeners sometimes called landscape architects?

A.—No; there are some men here in America who call themselves architects, but nowhere else.

Q.—Do you know an American writer named Downing, who calls himself an architect?

A.—No, sir; Downing calls himself a landscape gardener, and he makes the title an honored one, whilst there are other men—

Mr. Carson—[Interrupting]—I suggest, Mr. Chairman, that we have developed the architectural qualities of the witness sufficiently.

Mr. Fautsch—I could keep on for an hour.

Mr. Carson—No doubt you could, but our time is valuable.

Witness—It is a question if I could stand it so long.

Mr. Carson—I think the committee agree, without the necessity of any vote, that this examination has gone far enough. I believe we are satisfied that the witness is as well qualified in his profession as the other gentleman.

The Chairman—I believe it is so understood.

Mr. Carson—I do not propose to be at all theoretical in my questions. How long have you been employed in the park?

A.—Since April, nine and a half months.

Q.—State to us generally in what condition you, as a landscape gardener, found the park when you first when there.

A.—In a preliminary condition.

Q.—Have you found yourself at all limited in your designs, or in carrying out your designs, by the work that has already been done there?

A.—In some places, yes.

Q.—Specify the places, if you please.

A.—That I could not do, because it is only in order to plant in

some places. In some places I had to leave trees in whole masses away from where they ought to belong, and contrary to the judgment of visitors, who know nothing about it—self-styled examiners; that was because there was no time to remove them. In those cases I had to do what I thought was right, and leave the trees where they were, or remove them by transplanting, which costs there more than anywhere else, or by the cheaper way of cutting them.

Q.—What is the cost of transplanting a three or four-year-old tree?

A.—It depends on the place where the tree stands; if it stands on a steep side-hill, it is very easy to remove it by removing the sand and drawing the whole tree upon a stone bolt or a cart, and so carrying it to the place where the tree is to be planted—but where the tree has been originally planted a foot deep or more in the soil, on level ground, and is growing there, a tremendous hole has to be cut, and then the roots have to be bagged, etc., it will cost more than it would be worth; to tell the price of removing a single tree is impossible, because there is no intrinsic value in a tree, except so far it furnishes lumber.

Q.—The value of the tree is not the question just now. In a highly sandy locality, such as you have mentioned, what would it cost to remove a tree in the manner you have just spoken of?

A.—One man can dig a hole of such a size—well, we have given out contracts and paid from fifteen to twenty cents per tree; not higher than that; then the digging away under the tree will keep two men afterwards for some time, and three men to take it up and get it on the cart. I suppose it would occupy about an hour; we paid two dollars a day for eight hours, so that would be about two bits, making the whole cost about forty-five cents per tree; then after it is transplanted it is to be stocked and watered, and so forth, bringing the cost of the tree up to about a dollar.

Q.—You put the transplanting of a tree in that sandy, hilly locality at one dollar?

A.—Yes, sir.

Q.—How much does it cost to transplant a tree in the other locality you mentioned?

A.—That depends upon whether the sand is dry or wet; if the sand is dry, it will cost twice as much.

Q.—How deep should the trees be planted.

A.—That depends upon where it is; generally it should be planted nearly at the surface; it only requires digging down deep enough for its roots; if it is a large tree, it must be planted deeper, and in a larger circle, and in removing it more soil has to be taken, which makes it more difficult and expensive; the cost cannot be calculated to a cent, but I do not think any such tree can be moved for less than one dollar, and besides that, there is the additional work of replanting.

Q.—How much is that?

A.—That depends upon where it is put; perhaps two bits or three bits.

Q.—Then you would estimate it at one dollar and fifty cents in one locality, and one dollar in another?

A.—Yes. I remember that I planted such trees for a dollar and a half, and I considered that was paying too much for the whistle.

Q.—Now, what are young pines worth in this market, if you know?

A.—I cannot say, because very few nursery men raise them near by.

Q.—What are young spruces worth in this market?

A.—I have bought some at thirty cents a piece; the silver spruce, not the common Monterey spruce.

Q.—These gum trees; I mean the shrubs?

A.—When they are fit for planting, they are offered for from three bits to forty cents—forty dollars a thousand; but I have seen inferior ones sold for less; the cheapest are not always the best to buy.

By Mr. Broderick—Where do you see those inferior ones?

A.—About town, in gardens and nurseries; trees that have stood too long.

By Mr. Carson—What is the average cost of planting these small shrubs you refer to—the work—just the labor of planting?

A.—That depends on the distance they are hauled.

Q.—I am not speaking of the hauling.

A.—That is included in the expense; we have to pay for the hauling.

Q.—How much of a man's time is required to plant one of them?

A.—If he is a handy man and the soil is prepared for it, it will take about five minutes.

Mr. Broderick—How long will it take if the man is not handy and the soil is not prepared?

A.—If the soil is graded—I have to understand the question.

Q.—The purport of my question is—I presume you have handy men up there—and I want to get at how long it takes to plant the trees there?

A.—After the tree has arrived at the place where it is to be planted?

Q.—Yes.

A.—Five minutes for a small tree from the nursery, and big trees three or four years old, of course it will take hours.

Mr. Carson—Now, taking your shrub planted in that way, caring for it, cultivating it three or four years, and bringing it to a moderate condition of growth, if you will, then what is your spruce tree and your gum tree worth?

A.—Sometimes nothing at all, and sometimes it is an imaginary price, because it is a fine tree and well grown, and stands in its proper place; then it cannot be overvalued, because it is just the thing that is desired. I never expect to be governed by the price in a matter like that.

Q.—We have to look at it in a purely financial aspect.

A.—I never learned that. I do not know how to earn or handle money, and that is the reason I am here.

Q.—You consider a tree brought to that condition as beyond price?

A.—Of course; yes, sir. No—— can never be paid for in a tree nor any other place.

Q.—I would like to get down to the facts—to figures—if you can do it.

A.—I am unable to answer monetary questions; I am not a business man.

Q.—How much do you consider the labor, time, and materials expended by bringing a tree such as you have mentioned from the condition of a shrub, during the course of three or four years, to that condition of perfection which you have mentioned, is worth?

A.—Almost nothing; they grow by themselves if they are not in need of watering; the cost of the planting is all the cost besides the

water; where that is not necessary they grow in value without causing expenses.

A.—Have not many of those trees grown in value without cost for three or four years?

A.—Yes, sir; Oh, that is so.

Q.—How many have grown into this condition without the expense of irrigation and care?

A.—That I cannot say, because the watering has only been done where it was necessary, and as long as necessary. Some were not watered at all, and some had to be watered only at the latter end of the summer, because they showed signs of standing too dry.

Q.—Do you consider it economy to cut a tree of the character we have mentioned down, and absolutely destroy it, and only use it for making a brush fence, instead of digging it up and transplanting it at a cost of a dollar or a dollar and a half?

A.—Most decidedly, most positively, I do.

Q.—You believe it is good economy; and so a great many trees have been cut down in the park?

A.—I have ordered many trees cut down, but not as many as has been stated here; that is, if the trees could not be hauled away in a few wagon loads on that sand.

Q.—How many have you ordered cut down?

A.—A few hundred, if I calculate right. I do not think it is far from two hundred; it may be more or less, but it is not far away from that—from two hundred.

Q.—Were there more trees cut down in the park than you have mentioned?

A.—Not that I know of; nobody had a chance.

Q.—Could it be done without your knowledge?

A.—No, sir.

Q.—Then it is not true that thirteen hundred or fourteen hundred trees have been cut down?

A.—Oh, Lord! that is absurd, most ridiculous; thirteen or fourteen hundred trees standing there three or four years—why it would make a pile most as big as the City of San Francisco; that is absurd; trees grow mighty fast here.

Q.—I will turn a moment from this matter to the tunnel and open cut there is there. As a landscape gardener, do you consider that as a proper thing to be done?

A.—Which cut is alluded to? There are two that I know of.

Q.—I refer to this one here in the northern drive, at the intersection of Nineteenth Avenue, as extended.

A.—Is that where the quarry is?

Q.—There may be a quarry.

A.—Well, I understand——

Q.—[Interrupting]—Stop, if you please. I ask your opinion as an expert.

A.—I have no opinion; I was told it.

Q.—I ask your opinion, as a landscape gardener of Golden Gate Park, whether, in your judgment, the cutting of that tunnel, and making of that open cut there, on the line of the northern drive, about the intersection of Nineteenth Avenue, was an advisable or artistic thing to do?

A.—I cannot say anything about it, because that has not yet come in my charge. I only passed through it once, and it will be years

before we can ——— in making the park. My department is here [showing on map]—not beyond that.

Q.—As a landscape gardener, had you had the original laying out of this park up here [showing witness on map], would you have designed or proposed any such open cut or tunnel as has been proposed and partially executed there, with regard to artistical effects to be produced by the cut?

A.—I would have done just that same thing—at least I think I would.

Q.—Why is that?

A.—Because it suggested itself; and I would have that road running right through as it is intended, as that is a fine quarry, the material has to be used upon the park before the work is finished; in the meantime a temporary road leads down there [showing on map]. Until that work is done it is an economical matter, because the material which is to be removed must be used on the park.

Q.—So you have then an economical view beyond your artistical view?

A.—Certainly; we would not be the men we are supposed to be if we would waste money where it is not required.

Q.—Is there any other answer you desire to make in regard to the, artistical portion of the question?

A.—I have heard of several cases that have been alluded to—

Q.—You answered as to this in an economical point of view; now in regard to the artistical portion of it?

A.—Where the road runs now it makes unnecessary turns, and the most pleasant drive and the most direct and natural way leads just through that place, and the material can be used, and there is time yet, three, four, five, or six years. In the meantime the excavation is completed without much cost, because the material is used for roads.

Q.—You still stick to the economical portion of the question?

A.—Well; either artistically or economically, it makes no difference. Both points are gained, because the bends of the road as it now runs are necessary, but they are not beautiful and not even convenient.

Q.—I will ask you the question I put to Mr. Hall the other day: Is not the design of a landscape gardner, operating upon a piece of territory as large as this park, and in all park business, to conform to and imitate nature as much as possible?

A.—Certainly.

Q.—In that view do you consider the running of an open cut of the depth of this, in some places thirty feet, and a tunnel of a hundred yards cut through the hill, supplemented by another cut on the other side of the hill, as conforming to nature very much, or imitating nature?

A.—I think it is, because ravines have their attractions. They are natural beds of streams generally, and where there are useful quarries it affords an economical opportunity for producing a ravine where naturally there is none. We bring in that novel feature in a place where it is not naturally found, because in sand hills there are no ravines. Then, here a ravine gives a convenient connection between points and a safe passage for vehicles.

Q.—If I understand you rightly, this cut and tunnel is not through a sand hill.

A.—No; you cannot have it in sand hills, but most of the land in the park consists of sand hills, and here is a chance to introduce a novel feature apart from the rest.

Q.—Do you imitate nature in the way of tunnels?

A.—No; but before we get to the tunnel there is the ravine.

Q.—But when you get to the tunnel how closely do you imitate nature?

A.—They have tunnels in Switzerland and in other countries. It is the object of nature to produce variety, and so we present to the spectator as many varieties of scenery as we possibly can.

Q.—Suppose, for instance, a road of moderately easy grade could have been built around the hill in the vicinity of this cut and tunnel, with, perhaps, a small addition to the length of this cut and tunnel through the hill, and produced at a very small expense compared with that of the cut and tunnel, do you consider that this cut and tunnel was the best mode that could have been gotten?

A.—If the situation had been such, of course it would have been the best, but it was not. There is no chance for a convenient road. That is just what made me ask why not run through there. There is no other chance. It is the most convenient place for a road from the avenue to the beach.

Q.—You are a surveyor, are you?

A.—Somewhat.

Q.—Tell me the elevation of the highest point of that road, just above the level ground at the lodge?

A.—I think it is too far to judge by eye-sight. But in the neighborhood of the cut, as far as I can recollect, after looking once at it, it is in the neighborhood of thirty feet. It is that which makes the present road so steep, inconvenient, and expensive, on account of the wash by rains. And when completed through a tunnel, it will be the cheapest, besides not being exposed to the wind. Now you drive just in the wind, on the temporary road, but after this tunnel is done there will be a fine sheltered place for everybody passing through to take a rest.

Q.—Would you have us infer, that for the convenience of persons driving through the park, to avoid the wind, it would be better to build a tunnel from end to end of the park?

A.—No, sir; you get to a point where the draft of wind would be increased, while this tunnel will form an eddy.

Q.—Can you give us an idea of the length of that cut, as far as it has gone?

A.—I do not know what amount of sand was removed, but through the very rock I think it is about twenty-five, thirty, or forty feet, or something along there.

Q.—So that after large expense in cutting through the rock, and quarrying through there, the person driving through will have the absolute advantage of that long distance out of the wind—is that your idea?

A.—No, no; the bend of the road will necessitate the cut, and this will act as a wind-break.

Q.—You spoke a little while ago of the scarcity of money; could not the money that has been expended in grading and cutting through this cut and tunnel have been expended to greater advantage in trees and shrubs?

A.—No, sir; because the road had to be built, and this tunnel

might as well be worked as a quarry to furnish the material, and have the excavation going on. It pays for all the labor.

Q.—Suppose the material found in that cut and tunnel is not desirable?

A.—If that was not the case then it would lose that advantage.

Q.—Suppose Mr. Hall, the Superintendent, was disappointed absolutely in his search by means of this cut and tunnel, for this macadamizing material, would you then think it best to continue that work—would it be good economy?

A.—If he had found no use for that material, and had to carry it away and use it for filling somewhere else, I do not think he would have thought of such a thing; but first finding the very thing he was looking for, and in view of the advantage of making the improvement, it suggested itself.

Q.—But suppose Mr. Hall has testified that he found himself disappointed in the material; would you consider him justified in continuing that work?

A.—I did not see any work done there.

Q.—I am not asking you that?

A.—I cannot think for Mr. Hall. I am not expected to think about other people's business.

Q.—I do expect you in this particular instance. [The reporter reads the last preceding question.]

A.—He might be justified in saying: "Well, we have gone so far, and we might as well go a little farther, and it will be better than to abandon the whole thing." If such is the case, he is justified in continuing it.

Q.—In the localities where you had certain trees cut down, have you planted other trees there, now?

A.—A great many; yes, sir. They were cut down mainly for the purpose of making room for other plants deemed more desirable.

Q.—What was the character of the trees you cut down?

A.—Pines, and spruces, and weather-beaten gum trees, such as looked shabby and ugly.

Q.—Usually growing to the windward side of clumps of trees?

A.—Sometimes. Sometimes they stood alone and exposed to the full action of the wind, and would never grow.

Q.—What kind of trees were planted in their stead?

A.—A great variety, such as never had been planted before, with the exception of a few acacias.

Q.—Did you plant any of the same kind as had been cut away?

A.—No, sir.

Q.—In no instance?

A.—No, sir. Some of the same kind have been planted where new plantations were made, for the purpose of sheltering the new plantations.

Q.—When you cut away trees that were exposed to the wind and twisted, you have, in many instances, left other trees that were originally to the leeward of them; have you not?

A.—Yes, sir.

Q.—Now, are not these you have left there just as exposed, being to the windward side of each particular clump?

A.—They are not such as will suffer, because I guarded against that, most carefully.

A.—Will not the wind bend and twist them in the same condition

as those which you had cut down because they were twisted by the wind?

A.—I do not think it will, because I selected such trees as will stand it, such as acacia and ———, which seems to enjoy the wind.

Q.—You are talking about the ones lately planted?

A.—No, some were left, and some newly planted.

Q.—What is going to shelter the trees now until the ones lately planted grow up?

A.—Some of them are about the same height and some are low.

Q.—The ones lately planted are low?

A.—Oh, no; I planted some higher than any we had there—some seven feet trees.

Q.—The ones you have planted are higher than the next row of trees alongside.

A.—Yes, sir; and fast-growing trees.

Q.—Does a gardener know anything about cutting down stakes?

A.—Yes, sir.

Q.—Please explain it.

A.—A great many sticks were left on trees which did not require them any more; the trees were stronger than the stakes, and the sticks could be used to advantage, if removed, but they could not be got at, so as to pull them up. In some instances, we tried to pull them up, but these stakes being wider at the lower end, and close at the roots, the more we lifted them the more they would wedge into the roots, and you could not get them up; some were actually dug, and we removed those that could be removed, and used them to advantage with other trees that required staking; those stakes had to be removed, because the branches of the trees which they were supposed to support, grew so close that the constant action of the wind chafed and destroyed the lower limbs. This is what caused many of them to grow in a hay-stack shape, instead of the shape of fir trees. These stakes were removed in order to save the tree, and where it stood in the full sight of the visitor, if it stood in an ugly state, that was displaced by wires, which is the only stake in use all over the world, except in California.

Mr. Carson—Can you give the committee any idea of the number of stakes that were cut away?

A.—Oh, yes; I never took the trouble to count them, although I left it to these two men who I had supposed had judgment enough to cut away a stake where they thought it necessary. I left them to judge of that, and showed them how a tree should be supported, and they told me that they did not remove any except those they considered ought to be removed.

Q.—You did not use your own judgment, then?

A.—Of course I could not stand by and boss the two men, and tell them to pull up that stake, or to cut down that stake.

Q.—Do you know of any trees where stakes had been cut down and removed that have since been actually blown down?

A.—There have been, of course.

Q.—How many?

A.—I did not count them, but there have been some, perhaps one here, and two there, and three another, some distance apart.

Q.—Would they have been blown down, or have been thus destroyed had the stakes not been removed?

A.—Yes, sir; I want to answer that question fully. You ask me two questions in one: the tree will be blown down whenever the wind blows hard enough, so that in a good many cases the trees have been blown over, where the ground was soft, in spite of a stake; in some cases a stake has been driven on the side where it has been supposed to be necessary, and the wind has then come from the other side and there was nothing to hold the tree; but then the tree is not destroyed, it is merely bent over. If we found trees that would require staking, why, that was done, and the next wind perhaps would not harm them.

Q.—Then you have replaced no trees by other trees of the same kind?

A.—No; we fastened the stakes the best way that was possible; sometimes we would change the stake to wire, and sometimes we would drive an additional stake on the under side.

Q.—My question refers directly to other trees from which stakes have been removed—either pulled up or cut down?

A.—No tree was blown down by the wind except such as the gophers had eaten the roots off; for sometimes there is not a root left. Where a root has just started in the spring it is eaten off by the gophers as smooth as my fist.

Q.—Then the damage was done by the gophers?

A.—Sometimes, in some cases.

Q.—When a tree was blown down, you say it was merely bent over, and not destroyed?

A.—In some cases the tree would be bent that much above the ground, and the stake still stood there, because the action of the wind is incalculable; it is not always alike.

Q.—I am asking definitely, now, about certain trees from which the stakes were removed by your orders. I want to know how many of those trees, from which the stakes were thus removed, have been destroyed by the wind?

A.—None.

Q.—Or broken down or bent?

A.—None. They have been bent over, merely, and not destroyed.

Q.—All those trees from which you have so removed the stakes, and which have become bent over, will they continue to grow bent over in that way, or do they require new staking?

A.—They have been repaired a little.

Q.—Since you have been employed by the Park Commission, have you at any time visited San Rafael?

A.—Yes, sir.

Q.—With whom?

A.—Mr. Hall.

Q.—For what purpose?

A.—To see a lady there who requested a gentleman of my acquaintance to bring me over and introduce me; not finding my address, they addressed Mr. Hall, and we, one day, went over to see the lady and the place, and to suggest improvements.

Q.—It was simply a social call, then?

A.—Almost so.

Q.—It was not purely in a professional light?

A.—I do not call it so.

Q.—Did you receive any money for that visit?

A.—No, sir. I never received anything and never sought for it.

Q.—How long were you gone?

A.—One day. We started in the forenoon and returned in the afternoon.

Q.—Will you fix the time it was?

A.—I do not know exactly now. We left, I guess, about eleven o'clock.

Q.—I do not mean the hour, the day of the month?

A.—Let me see, when was it; it must have been in the summer or in the spring, I believe.

Q.—It is since you have been in the employ of the Park Commission?

A.—Yes, sir.

Q.—A witness has stated here that you planted trees in the park, and in about half an hour after they were planted they were blown down. Would you consider that economy?

A.—Well, that is not the case. The fact is, that when it is not very high, when I have to plant a mere bush, I would not place it in the ground low down. If there should be a strong wind it may blow some of them down again.

Q.—And then you set them up again?

A.—Of course; yes, sir. They have to be straightened up, and then I would put a little stake to hold them. That has been done and always will be done.

Q.—Can't you avoid that by planting them a sufficient depth to sustain them?

A.—Yes; but that is not the proper way to plant trees, and where the ground is so soft that they will go down by the wind, or their own weight, simply laying them down in that way is no injury to them at all.

Q.—But is it not a waste of labor?

A.—No, sir; for instance, if a man carries shingles up on to a roof, and in the night the wind blows them down again, he merely has to carry them up again. It is no waste of labor, but the natural consequence of the wind.

Q.—Suppose the custom had been, before you took charge there, to plant shrubs at such a depth that the wind could not blow them over?

A.—That could not be done, you will have to plant them down too deep.

Q.—I understand that you are opposed to deep planting?

A.—Of course, yes; you will find that the books are opposed to it, and every planter of trees.

Q.—What, do you cite the authorities to us?

A.—Yes, but you accept the authorities, not me. I find out myself that their statements are right, so I say it is no authority, but these writers are merely corroborators; it is not to have authorities, but I like to have corroborators, but I do not consider that they are above me.

Q.—But you do yield to authorities, and cite them?

A.—No, sir; I say only that they corroborate me in every case; that is not to make them my authority.

Mr. Broderick—A little while ago you spoke of large trees having been blown down; do you regard that as a financial loss at all?

A.—No, sir; I never do, because it will be concluded that they were valueless.

Q.—You do not stop to consider the amount of financial loss?

A.—I see no reason for it.

Q.—If you had a million dollars then, to lay out, you would not consider it at all?

A.—If I had only one tree, and it was blown to pieces, I would not consider it in a financial point of view.

Q.—You estimate the value of the tree only from what it cost in the first place?

A.—Yes, sir; I may have paid ten dollars for it, and thought nothing of it, and it might be worth a hundred dollars to-morrow.

Q.—Is the park now of as much value as it will be in five or ten years?

A.—Oh, no; I dare say not; there has been a great change already.

Q.—Do you mean to say that you have not taken down a tree with a view to planting another in the place of it, and that if such a thing was done you did not look at the financial part of it at all?

A.—No, sir; no. I am most opposed to spending labor which has to be paid for unnecessarily. That is what induced me to cut trees, instead of transplanting them, because I consider the trees valueless in some cases, and to cut them was cheaper.

Q.—When you took down any kind of a tree, did you plant another tree of the same kind on the same ground—I mean in that particular locality from which that tree was removed?

A.—No; because it was cut down and removed for the purpose of planting other trees.

Q.—Was it the same kind of trees that were planted in place of those cut down?

A.—No, sir, that has not been done; where a pine was removed, another pine has not been replaced.

Q.—The expectation is that the citizens of San Francisco will appropriate more money for the park, and it is for us to say whether it will be necessary or proper; therefore, if we believe that you cut down trees, and then plant the same species again in the same place, of course we should object to giving you money for any such purpose.

A.—Of course; that would be reasonable.

JOHN B. WILLIAMS, called and sworn, and testified as follows:

Mr. Carson—What is your business?

Answer—Carpenter.

Q.—Have you been employed by the park?

A.—Yes, sir.

Q.—If so, when, and in what capacity?

A.—As assistant keeper, and as carpenter.

Q.—At what time were you so employed?

A.—My appointment dated June—a year ago last June, I think.

Q.—Are you employed there now?

A.—No, sir; not there at the present time.

Q.—Do you know anything about any rock being hauled from the quarry to the park and Bay District Fair Ground?

A.—Yes, sir.

Q.—State what you know on that subject?

A.—While I was employed as assistant keeper on the park, there was a contractor named McClosky, I believe, who was macadamizing Fulton street, and in about the Race-track Hotel, and he used the park quarry, and the rock from the park for a good many days,

the number I could not state positively, because I did not pay much attention to it; he was for two or three weeks, possibly, more or less.

Q.—How many carts were hauling rocks from the quarry?

A.—I do not know. I did not note them at all, it may be four or five double teams.

Q.—They were working there every day for two weeks?

A.—Yes, sir.

Q.—Who were getting out the rock, or taking it?

A.—It might possibly be they were employed by the contractor.

Q.—Do you know?

A.—Not positively.

Q.—Were any of the park employes engaged in the superintending of getting out of that rock that was taken away?

A.—Not that I know of.

Q.—Do you know anything of that water being taken from the park?

A.—Yes, sir.

Q.—Tell us what you know about that, if you please?

A.—The proprietors of the race-track, I believe, sent teams from the park in the evening, to haul water to sprinkle the race track, they used double teams as water-carts, and they hauled for some weeks.

Q.—Every evening for some weeks?

A.—Yes, sir; the exact number of days they hauled I don't know?

Q.—You know that these teams came from the race-track?

A.—Yes, sir; I am positive.

Q.—It was not used on the track at all?

A.—No, sir.

Q.—It was taken from the goose-neck pipes in the park?

A.—Yes, sir.

Q.—You swear positively, of your own knowledge?

A.—Yes, sir; I closed the gates after them.

Q.—At what hours?

A.—In the evening; they usually came at five and stopped at eight. The gates were closed at eight.

CROSS-EXAMINATION.

By Mr. Hall—Were you in a position to know whether or not the rock was taken from the quarry of the park, by a special agreement between the Park Commissioners?

Answer—Any agreement might exist between the Park Commissioners and the contractor, but I do not know. I merely said the quarry was used for macadamizing the rock in and about the hotel.

Q.—Were you in position to know that the water was used with the full knowledge of the Park Commissioners, and under what circumstances?

A.—I know nothing about it, other than the water was hauled from the park, as I believe, and know that it was for the purpose of sprinkling the race-track.

RE-DIRECT EXAMINATION.

By Mr. Carson—Do you know anything about hay at the park?

Answer—Yes, sir. I know hay was brought there and used for bed-

ding. The horses would not eat it. It was a poor quality of hay, that the horses would not eat, and they used it for bedding.

Q.—What quantity of hay?

A.—I don't know; a few bales, one load, possibly. They threw it out in the manure pile.

Q.—Not more than one load?

A.—Possibly, not more than that.

Mr. Carson—We would be glad, now, to hear those witnesses you spoke of, Mr. Hall.

PATRICK QUIGLEY, called by Superintendent Hall, sworn, testified as follows:

The Chairman—What is your business?

Answer—Foreman teamster at the park.

Mr. Hall—How long have you been employed there?

A.—Since the starting of the park.

Q.—Do you know anything of any wood being cut on the park during the first year or year and a half?

A.—Yes, sir.

Q.—Under what circumstances was that wood cut?

A.—Well, it was in the way of the road when we were grading; it was cut by contract, a portion of it.

Q.—That is, at so much a cord?

A.—Yes, sir.

Q.—About how much was cut during the time that this wood cutting was going on—that the grading of the road was going on and the stumps were being taken up?

A.—From forty-five to sixty cords, somewhere about that amount, somewhere in that neighborhood, probably a little more, or a little less.

Q.—Do you know anything of the disposition of that wood—what was done with it?

A.—Yes, sir.

Q.—Was there any sold?

A.—I have not known of any being sold, with the exception of three or four cords, or somewhere that amount.

Q.—To whom was it sold?

A.—I think it was sold to Mr. Kenny, the contractor. I don't know his initials; he lived at the Western Addition at that time. It was sold by Mr. Hendricks. [Enright.]

Q.—Do you know anything about paying anything for wood?

A.—I have seen him pay the men that hauled the wood away—Kenny or his men. I saw him give Hendricks [Enright] the money for that wood—I suppose the amount he took at that time.

Q.—Do you know anything of my ordering wood to be sold there?

A.—No, sir; I never heard it. I heard the proposition of other parties—Codman; there were several wanted to know if that wood would be sold, and I asked you, and you told me it was not for sale.

Q.—You remember of my ever saying that rather than have that wood peddled out in that way, it should stay there and remain on the ground, useless?

A.—I believe you did, sir, make such a remark at that time.

The Chairman—I suggest that you ask him what you said—if you said anything in regard to the wood—rather than put your questions in that way.

The Witness—He told me rather than peddle it out he would let the wood stay there.

Mr. Hall—You remember the circumstance of any wood being sent to my house?

A.—I think there was one cart-load or two, sir; that is all.

Q.—What were the circumstances?

A.—Well, I was not told to send there any wood, but I told Mr. Harkness to leave it there to you. They were going to move it out the next day, and I told him to send it to your house, and when you came the next day, you told me not to do so any more, under any circumstances.

Q.—Was it ever done again?

A.—Not to my knowledge, sir.

Q.—Were you there on the ground all the time as much as any other employé?

A.—I think so; I was all the time there.

Q.—And in the neighborhood where this wood lay or piled?

A.—Yes, sir.

Q.—What was the rest of that wood used for in the park?

A.—It was used for pumping water, sir, in the engine-house.

The Chairman.—All the rest of the wood?

A.—All the rest of the wood.

Mr. Hall—That engine was run I don't know how many months, but seven or eight I believe, by that wood. What other wood has been cut since then?

A.—Some has been cut back and forward all the time, and there is some lying there yet that was not used up at that time, a small portion of it.

Q.—About how much wood is there now?

A.—Cut and piled?

Q.—No; how much that is cut?

A.—Some number of cords.

Q.—What is it used for?

A.—At the office and those houses.

Q.—Is there any used over at your house?

A.—Very little, sir; not more than two cart-loads this winter, and never has been.

CROSS-EXAMINATION.

By Mr. Carson—You live in the park, do you?

Answer—Yes, sir.

Q.—It is at that house in the park that this wood is used by you, the two cart-loads?

A.—Yes, sir; to the best of my belief that is all that went there.

Q.—Do you know whether this wood was cut by day's work or by the cord?

A.—The first year out there it was cut by the cord.

Q.—About how much was paid by the cord for that cutting?

A.—I think four dollars.

Q.—Afterwards how was it cut?

A.—It was cut by day's work. When we would get up a portion of a stump we would cut that up and haul it to the pile, and there is a portion of it there yet.

Q.—These three or four cords you say were sold by Enright to Kenny were of that wood, were they?

A.—They were of that wood; yes, sir.
 Q.—It had already been cut?
 A.—It had been cut and not moved. It was right on the road where they were going to macadamize.
 Q.—Do you know what Enright got?
 A.—I do not know. All I know is, he received some pay for it.
 Q.—Do you know whether John Doyle's teams took away any of that wood to John Doyle?
 A.—I do.
 Q.—Did my teams take away any?
 A.—No, sir.
 Q.—Do you know whether Doyle paid any money to any person for that wood?
 A.—No, sir; not to my knowledge.
 Q.—They could have taken it away without your knowing it?
 A.—Undoubtedly.
 Q.—You say you were in the neighborhood.
 A.—Undoubtedly they could not have taken a large amount, but it might be taken, a single load of it, when I was not there.

WILLIAM HENDERSON, called by Mr. Hall, the Superintendent, and sworn, testified as follows:

Mr. Hall—What is your occupation?
 Answer—At present, I am not doing anything.
 Q.—Were you ever employed in the Golden Gate Park?
 A.—I was.
 Q.—In what capacity?
 A.—As foreman.
 Q.—Were you employed there during the first year, or a portion of it, when the work was going on?
 A.—I commenced there in September, eighteen hundred and seventy-one.
 Q.—You live on the ground?
 A.—I do, a portion of the time.
 Q.—At what house?
 A.—At the lodge; the entrance of the park from the avenue.
 Q.—Do you know anything of any wood being cut there?
 A.—I do, sir. It was all cut, I believe, while I was there.
 Q.—About how much?
 A.—Under your instructions, I once made a little calculation of what was cut there, and I estimated it, without knowing it exactly, at about fifty cords, and I so reported it to you, I believe.
 Q.—Do you know anything about the disposition of that wood; what was done with it?
 A.—Well, it was principally used at the engine in pumping water—at the engine-house. I used it awhile. I was at the lodge mornings and evenings nearly a year.
 Q.—Do you know of any of that wood being sold?
 A.—I do not.
 Q.—Would you be quite certain—were you in the habit of seeing that wood-pile, daily?
 A.—Yes, sir; I saw it every day—two or three times a day.
 Q.—Would you be apt to observe if any large portion of that wood was ever sold.
 A.—I should think so; I do not think it could be removed without

my knowledge, as I was never absent from the place but one day during the month; and that is the day I was off.

Q.—Do you remember any of that being sent my house?
 A.—I think Mr. Enright sent one load to your house, as near as I can recollect. I recollect the circumstance of his ordering that load sent to you.
 Q.—Do you remember my course; what did I do when I heard of it?
 A.—The next day, I believe, you were on the park. I think you were there in the morning. I think the load was sent when the carts returned home in the evening, and the next day you came out and remonstrated with Enright, and told him he must not do that any more. He sent no more of that wood off the park.

CROSS-EXAMINATION.

By Mr. Carson—Whereabouts was that wood piled?
 Answer—Near the engine-house. It was all taken from different places, where it was cut, and carried up near the engine.
 Q.—What was your position there?
 A.—Foreman, or acting policeman the latter part of the time.
 Q.—About this period your duties called you more to the gate than any place near the park, did they not?
 A.—No, sir; I was all over the park.
 Q.—Where were you usually stationed?
 A.—At the lodge, and around at the north drive, and around through Sixth Avenue, and around through the gate of the entrance of the park.
 Mr. Raisch—Will you tell me what the foreman's business is? What does he have to do?
 A.—To look after the men, and see that they do their work properly.
 Q.—Does he work himself?
 A.—No, sir; he is only looking after them to see that the men are stationed properly, and have done their business properly.
 Q.—How many men has he got under him?
 A.—Sometimes three, sometimes fifty.
 Mr. Raisch—I ask the question because every one who comes here is a foreman. I want to know how many there is.
 The Witness—I do not know how many there is now, as I have not been there for a year and a half. Sometimes there are three or four, sometimes more, according to the number of men; sometimes there are fifteen or twenty men, and sometimes there are two hundred and fifty.
 Q.—Sometimes only one out there?
 A.—I do not know in regard to that; sometimes I was superintending a large number, and at others I was not.
 Q.—Sometimes there would be one man to work and two foremen over you?
 A.—That is your supposition. I did not say so.
 Mr. Carson—Do you remember when a man named Kenny was performing a contract with the Commissioners there?
 A.—I superintended the macadamizing the avenue—nearly the whole of it.
 Q.—By Kenny?

A.—By Kenny. He was the contractor and I was the superintendent—placed there by the Commissioners, and by Mr. Hall, the Superintendent.

Q.—Was it your business to keep tally of the loads that were brought there?

A.—I did do so at certain times. I do not know as I did all the time. I often done it every day.

Q.—You made reports to your superior officers?

A.—Sometimes, and sometimes not. I was not required to keep accounts of the loads. I had special cases to go by—so many inches of rock to be put on at the center—so many at the sides—according to the contract.

Q.—Where did Kenny obtain the rock?

A.—At Seligman's quarry—at the north side of the avenue.

Q.—Do you know whether or not the same teams and men employed by Kenny on this work for the avenue, were also employed in doing some private work at the same time?

A.—Not that I know of, sir; I never knew it.

Q.—Do you know whether one load out of every five that was brought in that vicinity was put upon private property?

A.—No, sir; I do not. Excuse me; I would like to make a correction of my statement in regard to the rock. The rock was not all taken from Seligman's quarry; a portion of the rock taken from the lower cut was used in macadamizing the lower avenue—some that was obtained from Buena Vista Park.

Q.—Do you remember when Brady was fulfilling that contract for Kenny—the original Kenny contract?

A.—I recollect when Kenny died.

Q.—Brady assumed the management of it then?

A.—Yes, sir; I think he had something to do with finishing up the avenue, and also macadamizing the opposite street—Fell street.

Q.—You knew of Brady's men and teams hauling this rock, and one load out of every five being placed upon the streets in front of private property, instead of being deposited in accordance with the terms of the contract?

A.—I did, sir; but I think for the privilege of getting rock from Buena Vista quarry, Kenny was required out of every ten or every five loads, to give one to the park, which was put on the avenue, for the privilege of getting that rock from the Buena Vista quarry; but there was none put on private property, to my knowledge.

Q.—Did he perform that part of the contract?

A.—Well, he did, in a measure; as well as probably contracts are performed generally in San Francisco.

Q.—During this period, when this contract work of Brady and Kenny was going on and being fulfilled, were you steady in your attendance and supervision?

A.—I was never absent.

Q.—How does that time correspond with the other period referred to, when you were watching this wood so closely, and always had it in view?

A.—That was afterward; the majority of the wood was cut—the majority of it—after the avenue was completed.

Q.—Had there been any wood cut?

A.—Some had been cut.

Q.—How much?

A.—I could not say now.

Q.—Was there any piled up at the engine-house while this macadamizing was going on under your supervision?

A.—No, sir; it had not been cut then. The wood was piled up this side of the cut going to the engine-house, where it was always in view from the cut. You could always see it if you were at the gate.

Q.—How far was that away from where the work was going on that you were superintending?

A.—The work was on the avenue that I was superintending.

Q.—How far away was that?

A.—It might be three hundred or four hundred yards, and might be more.

Q.—From the engine-house?

A.—No; there was no wood piled up at that time at the engine-house.

Q.—You assert that positively?

A.—I do, sir.

Q.—And no wood cut?

A.—There had been wood cut, but not piled up at the engine-house.

Q.—Where was it piled up?

A.—In different lots, generally where it was cut. It was piled up as the foot of the hill, the stumps, etc., that came out, this side of the engine-house.

Q.—Is that the only part where it was cut?

A.—There was a little cut on the north side of the hill—perhaps three or four cords.

Q.—What was done with that?

A.—They removed that to get through to the engine-house.

Q.—What was done with it at the time?

A.—It was piled up there, and I measured it at the time.

Q.—How much was there then?

A.—Between three and four cords.

Q.—Do you remember when it was removed to the engine-house?

A.—I could not tell you.

Q.—Were you there when it was removed to the engine-house, and did you measure it?

A.—I think I did.

Q.—Was it the same quantity, or more, or less?

A.—I do not think it was any more or less.

Q.—Then I understand you the wood was not piled under your supervision?

A.—At that time I was not in charge of the cutting.

Q.—These fifteen or twenty cords you are talking about?

A.—Yes, sir; about fifteen or twenty cords that, with some on the north ridge, possibly, was included in that fifteen or twenty cords. There were three or four cords on the hill track, north of the gate, and the party who cut it asked me to measure it.

Q.—How far was the engine-house from where Kenny was macadamizing?

A.—Well, the macadamizing was the whole length of the avenue.

Q.—Was it a mile from the main entrance gate?

A.—No, sir; it was only about two-thirds of a mile from the entrance gate, on Baker street.

Q.—You know where the engine-house is?

A.—I do.

Q.—You know where Kenný was macadamizing?

A.—Yes, sir.

Q.—Now, what is the distance from point to point?

A.—Well, a little over half a mile.

Q.—Is it not over three-fourths of a mile?

A.—Yes, sir; a little over, I should think.

WILLIAM B. PRITCHARD, called on behalf of Superintendent Hall, sworn, testified as follows:

Mr. Hall—What is your occupation?

Answer—I am the park-keeper, sir.

Q.—How long have you been employed on the park?

A.—I have been employed twice; the first time was in eighteen hundred and seventy-two, I think for several months; the last time I was employed was in October, eighteen hundred and seventy-three, and I have been employed ever since.

Q.—When you were first employed on the park, do you know of any wood being cut?

A.—There was wood cut that I recollect of, the latter part of the time that I was employed there.

Q.—How was that wood used?

A.—Well, I do not know of its use in any way at all; I was not aware of any use made of it.

Q.—How was it disposed of?

A.—The wood was piled up in what we call Engine-house Valley.

Q.—How was it disposed of?

A.—Some of the wood had been piled in Engine-house Valley before I left, and that was used for pumping, in running the engine.

Q.—Have you any idea how much wood was piled up there?

A.—No, sir; I do not think only a portion of it had been piled up at the time I left there. I left in July; there was considerable work going on, on the northern drive, at that time, and the stumps were being taken out and chopped. The amount of the wood in the neighborhood of the engine-house—in fact, I believe there was no engine-house at that time, but the amount of the wood piled in that neighborhood was not great, I suppose.

Q.—Do you know anything of any wood being sold at the park during the time you were employed there, the first or second time?

A.—Of my own personal knowledge I know of no wood being sold.

CROSS-EXAMINATION.

By the Chairman [Mr. Broderick in the chair]—You were asked a question here, which is, in substance, what disposition was made of the wood in Engine-house Valley?

Answer—Yes, sir.

Q.—I believe you answered that it was used in running the engine?

A.—I was but a very short while there, but a few months.

Q.—You said it was used in running the engine. Could any other disposition have been made of any part of that wood without your knowledge?

A.—Well, yes, sir; some other disposition could have been made of it without my knowledge. You see the park is a large piece of property, and the wood was not gathered in one place, and some might be taken away without my knowledge.

Q.—I understand your intention was to say that it was used for running the engine?

A.—The wood was brought into that valley for the purpose of running the engine.

Q.—Another use could have been made of the wood without your knowledge?

A.—Hardly; not of any considerable portion that was brought to the valley.

Q.—Still it is possible?

A.—It is possible.

Mr. Carson—Could a person engaged in superintending the macadamizing the eastern end of the avenue, that is, the main entrance, keep watch there and see clearly all the wood piled up in Engine-house Valley?

A.—Well, that would be physically impossible, sir, if you put the question in that light; because the distance is over a mile, and there was hills intervening.

Q.—Are you related to Mr. Hall in any way?

A.—None, whatever, sir; neither related nor connected.

Q.—What did you receive when you were first employed?

A.—One hundred and twenty-five dollars a month, when I was first employed.

Q.—In what capacity did you serve then?

A.—As general foreman over three hundred men, employed on ninety odd acres.

Q.—You were promoted then to park-keeper?

A.—No, sir; I was discharged when the force was reduced.

Q.—How long did you remain out of the employment of the park?

A.—I remained out of the employment of the park from the first of July, eighteen hundred and seventy-two, to the latter part of October, eighteen hundred and seventy-three—over a year.

Q.—Then you became park-keeper?

A.—No, sir; I was given some surveying there. I used a level on the road.

Q.—Are you a surveyor?

A.—I have surveyed sometimes?

Q.—That is not your profession?

A.—I have not made that my profession for some time. I do not consider myself an expert in that line; I do not profess to be.

Q.—What surveying did you do?

A.—I used the level.

Q.—On what particular portion of the park did you use the level?

A.—I used the level from near Sixth Avenue, going out; well, nearly to the beach, a distance of over two miles, I suppose.

Q.—Were you then employed at a specified monthly salary, or by the job?

A.—I was then employed at a specified monthly salary.

Q.—How much?

A.—I think ninety dollars a month.

Q.—Had you any assistants?

A.—Well, when I was employed getting the levels, I had one assistant—a rodsman—and afterwards, in cross-sectioning, I had a rodsman and two men with the chain.

Q.—How long were you engaged in that work?

A.—I think several weeks.

Q.—Can you specify the time exactly when this occurred—what month or year?

A.—Well, I think I was employed in the latter part of October, eighteen hundred and seventy-three. I think I worked some days in October, to the best of my recollection. Since that time I have been employed on the park.

Q.—I speak of your surveying solely.

A.—I commenced this survey about the latter part of October, eighteen hundred and seventy-three, and was engaged in that, either surveying or making up the notes, for several weeks. It has been some time since, and my memory may not be perfect.

Q.—About how many weeks?

A.—Well, it may be three and may be four weeks. I do not recollect. It may even be less than that.

Q.—During that period, can you state how Mr. Hall was employed.

A.—Well, I saw Mr. Hall every day on the park. My duties out there were a considerable distance out on the sand, and out of sight of nearly everybody, and how he was employing himself I could not say, but I saw him out there every day, or nearly every day, to the best of my recollection.

Q.—When this survey was over, what position did you occupy in the park?

A.—He placed me in charge of some men, as a foreman, working on this road. As soon as the grade had been established, or rather as soon as the route had been determined on, and the grade established, the work commenced.

Q.—Right here, who determined that route?

A.—I don't know; the leveler did not determine it.

Q.—Did you establish the grade?

A.—I did not; I gave the levels.

Q.—How long did you continue in the position of foreman?

A.—I continued in the position of foreman until February, eighteen hundred and seventy-four.

Q.—At what wages?

A.—Ninety dollars a month.

Q.—And then?

A.—I was appointed—well, they gave me the name of accountant, but the duties were just the same as those I have now as park-keeper.

Q.—When did you change the name of your position, from accountant to park-keeper?

A.—That was on the first of June. Well, the duties have been changed a little, but my pay was not changed.

Q.—What was your salary then?

A.—From February first, eighteen hundred and seventy-four, one hundred and twenty-five dollars; and it has remained at that since.

Q.—In the capacity of accountant as well as park-keeper?

A.—Yes, sir.

Q.—Had there been any park-keeper before?

A.—There had been.

Q.—Had he acted as accountant at any time?

A.—Yes, sir; I suppose so.

Q.—Did the park, at the time you were appointed accountant, have a park-keeper when you were appointed as accountant?

A.—Well, the work had been increased; the one who held the position, nominally, as park-keeper, I believe, became assistant engineer.

Q.—What is his name?

A.—Louis Enright.

Q.—Your salary, to-day, is one hundred and twenty-five dollars?

A.—One hundred and twenty-five dollars. I have a furnished room on the park, I suppose that might be considered additional to my salary.

Q.—And there is no accountant?

A.—There is no accountant.

The Chairman—Do you perform all the duties out there that are laid down in the rules by the Commissioners, as the duties of the park-keeper?

A.—I do, sir; to the best of my ability.

Q.—So you can refer to the rules for what you perform—you say you perform all those duties?

A.—I did, to the best of my ability.

Q.—There is no one else specified to perform the duties of park-keeper, except yourself?

A.—No, sir.

J. T. FLEMING, recalled, testified as follows:

Mr. Carson—Do you remember any leave of absence being granted to Enright?

Answer—Yes, sir.

Q.—Are there any records on that point?

A.—Yes, sir; a resolution.

Q.—Can you turn to it?

[Witness turns to minutes of Park Commissioners, and reads under date of November twentieth, eighteen hundred and seventy-four: "Resolved, That the Assistant Engineer, Louis Enright, be allowed a week's leave of absence, without pay, to attend to the work of reclamation for owners of private property south of Golden Gate Park."]

Q.—Do you know whether Mr. Enright was paid by the Commissioners for that time?

A.—He was not, sir.

[The Chairman here shows the witness the pay-roll for that month.]

The Witness—The resolution was dated November twentieth, and he may have been employed afterwards.

Mr. Hall—It was in December.

The Witness—It will be the December or October pay-roll then. [Refers to another pay-roll.] The pay-roll may be made out with a full amount attached, but if you get the voucher you will find a half a month deducted.

Mr. Carson—Take the pay-rolls for the months of October, and November, and December, and read to the committee there from the account of Louis Enright, the Assistant Engineer.

A.—In the month of October, eighteen hundred and seventy-four, I see for that month, for Assistant Engineer, one hundred and fifty dollars; for the month of November, the sum of one hundred and fifty dollars; for the month of December, the sum of one hundred and fifty dollars. I can state positively though, to my own recollection,

that his pay was deducted, and I made the calculation myself, and have a record of it somewhere among the vouchers.

Mr. Carson—We prefer for the present, however, to go by the record.

Mr. Carson—I move that this committee now adjourn to meet in Sacramento, at the call of the Chairman, and in making that motion I wish to say that this committee has already given this examination five days; and I speak on behalf of the committee when I say that we will be glad to receive, not only from the parties but from other citizens generally, or from any officer or employé of the park, any suggestions, information, or papers, furnishing information that will throw any light upon the subject we have been investigating. I will state that this committee has labored under a great many disadvantages in this matter, and that by force of circumstances we have been compelled to make a sort of haphazard investigation, and that while the books and accounts appeared to have been carefully kept, still we have not had the time or the opportunity to give the documentary portion of the matter that investigation which we would desire; and, further, that in the course of a week or two, it is, I believe, the intention of this committee, either to return to San Francisco and resume the investigation in the light of what has already been done, or to continue it in Sacramento. We will then, or at any time in Sacramento that the officers of the park may suggest, take up this matter, and receive any further information or light that can be thrown upon the subject. I believe those are the sentiments of the committee in that regard.

The motion of Mr. Carson was put and carried, and the committee, accordingly, adjourned to meet in Sacramento at the call of the Chairman.

ADDITIONAL TESTIMONY

TAKEN BEFORE THE

ASSEMBLY SPECIAL COMMITTEE

APPOINTED TO INVESTIGATE THE AFFAIRS OF THE

GOLDEN GATE PARK, SAN FRANCISCO.

TESTIMONY

IN THE MATTER OF THE INVESTIGATION OF THE AFFAIRS OF THE GOLDEN
GATE PARK.

AT THE PARK LODGE.

SAN FRANCISCO, March 6th, 1876.

Present: Messrs. Carson, Raisch, Barber, and Broderick, of the committee.

Hon. James Carson in the chair.

Mr. Hall presents a communication addressed to the committee, which is read, and there being no objection it is placed on file.

JAMES LOGUE, called on behalf of Mr. Hall, sworn and examined.

Mr. Hall—What is your business?

Answer—Assistant gardener.

Q.—Are you employed on the park at present?

A.—Yes, sir.

Q.—How long have you been?

A.—I think it is five years the eighteenth of June coming.

Q.—Always in the capacity of assistant gardener?

A.—Yes, sir.

Q.—You were employed there during the winter of eighteen hundred and seventy-four-five?

A.—Yes, sir.

Q.—Did you assist in planting out a large lot of gum trees on the drifting sands out here?

A.—Yes, sir; I did.

Q.—Have you examined those trees lately?

A.—Well, the trees were planted there a year ago last fall. I have been all over them and examined them, I guess about a month ago, or thereabout.

Q.—What proportion of these trees that were planted out are still living and growing?

A.—Well, the acacias, gums, and pines is doing the best.

Q.—I will inquire about the gums particularly; what proportion of the gums are still living and growing?

A.—Well, with the exception of about four clumps, or five, pretty near the beach, they look pretty bad, but just inside of that they look first rate. It seems the sand drifted off and left them exposed.

Mr. Carson—What is that of the whole number?

Mr. Hall—About how many were planted out?

A.—I guess there was a little over fourteen thousand—fourteen thousand five hundred, or thereabouts.

Q.—How many of that whole number do you suppose are dead—from your examination?

A.—I could not say about how many. They all look first rate and alive except them few clumps that is out there.

Q.—How many are in those few clumps?

A.—I guess there might be from thirty to one hundred in each clump. I don't think there is over that.

Q.—At the most, then, there would be four hundred?

Mr. Carson—Well, let him estimate, please; don't lead the witness.

A.—In them four clumps there is not that many dead—in those four clumps, not four hundred, and there might be one out of every twenty. I guess about every twenty inside of that is dead, I think, as near as I can go.

Mr. Hall—Then there are nineteen, with the exception of these four clumps, out of every twenty, that are alive?

A.—That is near as I could go to it.

Q.—Growing well?

A.—They all have been well.

Q.—Can you take these gentlemen and show them these trees?

A.—Yes, sir; every clump that is now there I can show them.

Q.—How large were those gums when planted out?

A.—Some from about five inches to a foot high, and then they were cut back after being planted out; the gums was.

Q.—How large are they now?

A.—Some from about a foot to four feet—three and a half feet.

Q.—Were these trees irrigated during the last year—watered?

A.—No, sir.

Q.—Did you recently, during this winter, set out a large lot of gum trees on the sand?

A.—Yes, sir.

Q.—Do you think that they will grow?

A.—Well, I think they will, on account of the others growing. I think these will grow too.

Mr. Carson—Whereabouts were these?

Mr. Hall—Out on the sand?

The Witness—About the same place.

Q.—Have you examined those trees you have set out this winter, since they were set out?

A.—No, sir; I didn't; only a few; I didn't review them over any time I went there. They were looking pretty well, excepting the frost had nipped them—the tops of them.

Mr. Hall—That is all I have to ask this witness; merely to show the condition of those trees that were testified about.

CROSS-EXAMINATION.

Mr. Carson—When did you make this examination?

A.—I made it about a month ago, I think, as near as I can go. I don't know exactly.

Q.—At whose request?

A.—At Mr. Hall's, the Superintendent.

Q.—How long did it take you to make that examination?

A.—A little over a day.

CAPTAIN PRITCHARD, recalled for Mr. Hall.

Mr. Hall—You testified before this committee some time since—or did you testify before this committee some time since—that at one time, while you were employed as foreman here, you did some surveying out on the sand?

Answer—Yes, sir.

Q.—Was that surveying on the park or not?

A.—It was on the park.

Q.—Was it for park purposes?

A.—For park purposes exclusively.

Q.—What was the nature of the surveying?

A.—First to obtain the levels between here and the beach. I then followed up the locations of the lines. The line was located, and then I obtained—or rather the preliminary line was run—and I obtained the levels of that, and then also I established the grade of a portion of the line, or rather put down the grade, and marked the grade on the stakes after they had been established on a portion of the line.

Q.—For what purpose was this survey made?

A.—That survey was made for the purpose of making a drive to the beach.

Q.—Did you ever do any surveying or any other work off the park, by my orders, outside of the park, while you were employed by the park?

A.—I run a line of levels from here up towards the valley.

Q.—From here up to this valley? [Showing.]

A.—From this valley [showing]; yes.

Q.—For what purpose was that line leveled?

A.—It was for the purpose of obtaining the height of some ground up here in the hills above the track, I believe.

Q.—What was the height of that ground required for?

A.—To show whether water could be collected there, I believe, for the purpose of irrigating the park.

Q.—Collected in a reservoir?

A.—In a reservoir.

Q.—Did you ever do any other work off the park?

A.—Never, sir.

Q.—You never did anything for me, for my private benefit, while employed upon the park?

A.—For you or any one else, personally, whilst I have been employed on the park?

Mr. Broderick—Where this road runs off from the city?

A.—I did not follow the road; I just took the nearest line in order to go—I wished to get the height of a certain point above the park, that was all.

Mr. Hall—The Commissioners thought of purchasing a piece of land up there for a water reservoir, and this level was run up there to find out how high it was, to see whether it would do.

LOUIS ENRIGHT, recalled for Mr. Hall, examined.

Mr. Hall—What is your profession or present business?

Answer—My present business is a contractor.

Q.—Were you employed on the Golden Gate Park?

A.—I was, sir.

Q.—In what capacity?

A.—Employed as foreman—general foreman.

Mr. Carson—I think we have all that already—there is no necessity of going over all that.

Mr. Broderick—It might be well to inquire if he is employed on the park now or not?

Mr. Hall—Are you employed on the park now?

A.—No, sir.

Q.—When were you discharged from the park?

A.—On the first of May, eighteen hundred and seventy-five.

Q.—During your employment on the park did you become familiar with the granite monuments, corner-stones, and stakes used for marking positions on the surveys?

A.—Decidedly so?

Q.—Were you engaged in surveying from those points?

A.—Yes, sir.

Q.—How many of these granite corner-stones, called monuments, were there in place when you first became familiar with them?

A.—In place? Twenty-three granite monuments.

Q.—How large were those monuments?

A.—Those monuments were about four feet long and six inches square—might have been four and one-half feet or five feet.

Q.—What were they worth?

A.—I think they were worth about three dollars apiece—that is, the stone itself, without setting it.

Q.—When did you first become familiar with these monuments?

A.—I became familiar with these monuments—with some of them—the first day I was engaged in the park.

Q.—When were you perfectly familiar with them?

A.—I knew all about where they were, and how many there were, four months after I was engaged.

Q.—In what year was that?

A.—That was probably about April, eighteen hundred and seventy-two.

Q.—During your capacity here as general foreman were you cognizant of wood being cut—did you know of wood being cut here on the park.

A.—Yes, sir.

Q.—What time was that wood-cutting going on?

A.—There was wood cut when I first came out here, in the winter of eighteen hundred and seventy-one.

Q.—Then there was wood cut up to the end of eighteen hundred and seventy-two?

A.—Wood-cutting was going on when the first road-making was going on, when we cut more wood than any subsequent time; after that, until I left, there was wood cut—probably a quarter of a cord here and probably a quarter of a cord and along wherever—

Q.—How did that wood happen to be cut?

A.—By extracting the roots, the trees that were no account we tumbled down and chopped up.

Q.—About how much wood was chopped during the time wood-chopping was going on?

A.—We would, when roads were being built; first I kept a memo-

randum of that; I think I have got it at home yet; I don't think there was more—up to the end of eighteen hundred and seventy-two—there was more than sixty-five to seventy cords altogether chopped; of these, there were chopped about, in January, eighteen hundred and seventy-two, and December eighteen hundred and seventy-one, there were chopped from fifteen to twenty cords, and about from fifty to fifty-five cords in the year eighteen hundred and seventy-two; altogether from sixty-five to seventy cords.

Q.—Were you in charge of the pumping engine during the summer of eighteen hundred and seventy-two?

A.—Yes, sir; I ran that engine myself for the greatest part of the time.

Q.—About how much wood was chopped there—how much wood was used in that engine during the summer?

A.—I think there was about—the engine was run for one hundred and thirteen days—there was used about forty-seven and a half cords of wood. There was some wood used prior to that, at the time we were sinking that large well—a temporary larger engine that was run night and day for about eighteen days—there was about from eighteen to nineteen cords used—eight or ten cords.

Q.—Then altogether there was—

A.—From fifty-five to fifty-seven and a half cords of wood used on that engine.

Mr. Broderick—Does that include the one hundred and thirteen days?

A.—Yes, sir; because the one hundred and thirteen days—I recollect that time we had a temporary larger engine there to lift the water out of the well while the well was being dug.

Q.—That would make about ten cords more?

A.—Yes, sir; about eight or ten cords more. That engine ran night and day.

Q.—Was any of that wood ever sent away from the park?

A.—Yes. I sent once by a man that worked on the park, who had two horses and carts; I sent once one evening when he was going home; I sent one of these common cart-loads of wood to my house, and told him to take one to yours.

Q.—What instructions were given the next day about that?

A.—Well, you came out the next day and seemed very much incensed about it, and gave me instructions, and I think it was in the presence of Mr. Henderson—Mr. William Henderson and Mr. Quigley, that such things should never happen again.

Q.—Did it ever happen again, to your knowledge?

A.—No, sir.

Q.—Was there any other wood sent to any person's (to your knowledge) house connected with the park?

A.—No, sir.

Q.—Do you know of any wood being sold?

A.—Yes, sir; I sold some of that wood.

Q.—Was it understood at the time that that wood was for sale?

A.—Well, I understood the wood was for sale, and I sold, as as near as I can recollect—I sold about four cords of wood, I think, to a man named John Doyle. I think I sold cords of wood to a man named Kelly, who used to be a contractor here, and I received, I think, at the rate of eight dollars a cord—I think it is the price. I think the wood was offered for sale, and Mr. Thomas Connelly was

Park Commissioner; he came out next day—the first man I saw, and I tendered him the money, and he told me that they didn't want to peddle the wood out in such small quantities; they wanted either to sell the wood altogether, or not at all. I tendered him the money, and at the same time a little memorandum of incidental expenses, which I defrayed out of my own pocket, and he told me that they didn't like to keep that money, and for me to take that money and defray those little expenses, and afterwards render him a statement of what I had expended. So I did, and he gave me instructions not to sell any more wood if I could not sell the whole.

Q.—Well, was there any more wood ever sold?

A.—No, sir.

Q.—Did you ever give me any money for any wood that was sold?

A.—No, sir; I even think Mr. S. F. Butterworth was along with Connelly.

Q.—Did any other wood than these two loads that you sent to your house and to mine, and these six or eight cords which you sold and accounted for the money to Colonel Connelly, ever leave the park, to your knowledge?

A.—No, sir.

Mr. Broderick—Six cords is all you testify to?

A.—Yes, sir; I am pretty sure that is all I did sell. I guess I can hunt up the memorandum.

Mr. Hall—How was that wood used here on the park?

A.—That wood was used in the engine-house, as I stated before, and afterwards it was used for the gate-keeper's houses—for the lodge here—and some of it was used in laying that pipe and building the fires to melt that lead.

Mr. Carson—How many cords were used in that last business that you speak of—melting the lead for the pipes?

A.—I don't believe there was much used; probably a half cord to a cord.

Mr. Broderick—What is the length of the pipe?

A.—The length of the pipe—well, we had all lengths—elbows.

Q.—How much pipe was jointed with lead joints?

A.—I couldn't tell how much exactly; I have got that in my report I submitted to the Engineer in Chief at the time.

Q.—How large are the pipes?

A.—The pipe was four inches and a half.

Q.—Wouldn't a charcoal furnace have done to melt that?

A.—I think it would have cost a great deal more to have a charcoal furnace here to melt that lead, when we had wood here on the park that did not cost anything.

Q.—About half a cord of wood you say was used?

A.—That is all.

Mr. Hall—Are you familiar with the drains here on the park?

A.—I should think I was, of course; I staked every one.

Mr. Broderick—I would like to ask you if in making the fires, to melt that lead, the fire was all kindled in one place, or did you shift the fires?

A.—Oh, we shifted the fire, it was a moveable furnace.

Mr. Hall [Showing a map]—Were you familiar with a drain laid in the valley, near the center of the park, from the central lake, on a line with the crossing of Third Avenue, northeasterly into the engine-house valley?

A.—Yes, sir.

Q.—What was that drain put in there for?

A.—That drain was put in there to drain that water accumulating in the engine-house valley, and, also, the surface water over these roads, in the vicinity of the central lake.

Q.—Has it answered that purpose?

A.—Decidedly.

Q.—Is it answering that purpose now?

A.—Yes, sir.

Q.—Are there various man-holes and sill-basins connected with that drain now?

A.—I don't know what has been connected since I left, but while I was there, up to the time that I left, there was two sill-basins, and about five man-holes, and branch drains connected with that drain.

Q.—About what area of ground does that drain drain now?

A.—That drain drains a surface of probably nine hundred thousand square feet.

Q.—What would be the result if that drain was not there?

A.—The whole engine-house valley, certainly would be continually under water, as it has been before that drain was put in, and as it has been at the early commencement of the work; you can recollect there was a lake here [showing]; all the roads and surface drain of water has got to be carried off naturally some way.

Q.—Would it have been cheaper to put in that drain and drain the valley, or to have filled it?

A.—I don't see how you could fill it up sufficiently to drain it.

Q.—That drain was necessary then, was it?

A.—In my opinion it was, and I think it would have been the opinion of any person that knows anything about it, too.

Q.—It forms, at present the permanent drain of that valley?

A.—Yes; the best drainage that could be, too; in fact the only direct drainage that could be made.

Q.—Did you ever make a proposition to Frederick Mau to lower a city monument?

A.—No; I think if Mr. Mau had been a competent engineer—I don't see what he meant by lowering—

Mr. Carson—Never mind, answer the question direct.

Mr. Hall—Did you ever make a proposition to lower city monuments?

A.—No, sir.

Q.—Were you engaged superintending a job of planting and cultivating a certain tract of land south of Golden Gate Park, for me individually?

A.—Yes, sir.

Q.—In the winter of eighteen hundred and seventy-four-five?

A.—Yes, sir.

Q.—How long were you absent from the park on that work?

A.—I was absent in all nine days—nine days and half I think.

Q.—Did you have a leave of absence from the Park Commissioners for the purpose of attending to that work?

Q.—Did you perform any duty for the Park Commissioners while you were absent?

A.—I did, sir.

Q.—What did you do?

A.—I performed the duties of keeping my journal, making out reports. I know, sometimes, I had to stay up here and at my house until ten and eleven o'clock at night.

Q.—Did you ever receive any pay from the Park Commissioners for the time you spent on this outside work?

A.—No, sir.

Q.—Did you receive any pay for the services you rendered the Park Commissioners during that time?

A.—No, sir.

Q.—Were you paid by me for that duty?

A.—Yes, sir.

Q.—Did you keep account of the time of those men who were engaged on the work outside of the park?

A.—Yes, sir.

Q.—And made out the pay-rolls?

A.—Made out the pay-rolls myself.

Q.—Are those the pay-rolls? [Showing.]

A.—Yes, sir.

Q.—That one? [Showing.]

A.—Yes, sir; those are the identical pay-rolls I made out.

Q.—At any time, was any man employed upon the work outside of the park, credited with the work on the park pay-rolls?

A.—No, sir; I don't know as they were credited on the park pay-rolls, but they were not credited on my books, which went into the park-keeper, to make out the pay-rolls from it.

Q.—Well; is all the time spent on my work, outside of the park, represented on these pay-rolls?

A.—Yes, sir.

Q.—On these private pay-rolls?

A.—Yes, sir.

Q.—Were you present when these men were paid off?

A.—Yes, sir.

Q.—Did you see me pay Patrick Burns the sums of money set opposite his name on these rolls?

A.—Yes, sir.

Q.—On two separate occasions?

A.—Yes, sir; Patrick Burns, I gave—Patrick Burns signed his name, and I stood by while he signed it.

Q.—On this pay-roll?

A.—Yes, sir.

Q.—Five dollars and a half in this instance?

A.—Five dollars and twenty-two cents in this here, and fourteen sixty-five.

Mr. Broderick—You say he paid him five dollars and twenty-two cents?

A.—He might have paid him five twenty, or five twenty-five.

Mr. Hall—My impression is I paid him five dollars and a half.

Q.—Did you see Patrick Ward receive the money set opposite his name on these two rolls?

A.—Yes, sir; and he held the pen while I signed his name. I think I did sign his name. Yes, he made a cross after the nine dollars and fifty-five cents. In one instance he made a cross and I signed his name.

Q.—Nine dollars and fifty-five cents in one instance, and how much in the other?

A.—Ten thirty-three.

Q.—You signed for him in one instance, and who signed in the other instance? Do you know?

A.—No, sir; I could not tell.

Q.—You only signed for him in one instance?

A.—Yes, sir.

Q.—You saw him receive the money?

A.—On both instances I was in the room when he was paid off. I called out the names and the amount of money.

Q.—You knew of all the barley that was taken out there for reclamation purposes, or did you know of all the barley taken out there for reclamation purposes on the park track as well as on my work?

A.—Precisely.

Q.—And rendered a report of it?

A.—Yes, sir; I rendered you a report of it, stating the exact weights and number of sacks, and everything that was used and was returned.

Q.—Was any barley belonging to me or belonging to the park ever used on any private work of mine?

A.—No, sir; you had your own private barley hauled by Morton's teams, and I kept an account of it. I think it was Morton's teams.

Q.—Was there ever any barley sent away from the park out there to any place, to your knowledge?

A.—Park barley?

Q.—Park barley.

A.—Yes, sir; there was.

Q.—Where was it sent?

A.—There was the first or second day, when we had no watchman out there, and no tents, and was sowing that barley right down by the beach. There came one load out in the evening too late for to sow that day, and I gave the driver instructions to drive that barley down to Seal Rock House, where the horses was stabled and the men were boarding at the time, and told the driver to leave it on his wagon, or take it off, if it should be rainy weather, and pile it up on the porch, and bring the same barley back with him again the next morning, so we could use it there to sow, which was done.

Q.—It was sent down there then because there was no means of taking care of it on the park, where the work was going on?

A.—Yes, sir.

Q.—Did that barley come back the next day?

A.—Precisely; or else we could not sowed it.

Q.—Did you know of any sacks being lost out there?

A.—Oh, yes; there was some sacks lost out there.

Q.—About how many were lost?

A.—I don't know. Lost—I know—one hundred and fifty. It is impossible to go over such a large area of ground—

Q.—Were there any of my sacks lost?

A.—I think there was more lost in proportion than the park sacks.

Q.—Was there a time when those sacks were lost out there, there was a watchman employed?

A.—Yes, sir.

Q.—What is the name of the watchman?

A.—Frank Hardy.

Q.—Was he supposed to be responsible for the barley and for the sacks that were there under his care?

A.—That is the instructions that I gave him.

Q.—Did he ever report the loss or stealing of any sacks, or the loss of any barley, to you?

A.—No, sir.

Q.—If there was either barley or sacks lost there, ought he not to have reported it, if you knew of it?

A.—Yes; he made report to me every day—so many came out, so many expended, and so many left; but he never reported any loss to me at all.

Q.—If there were sacks stolen or lost, ought he not to have known of it?

A.—Yes, sir.

Q.—Ought he not to have reported it?

A.—Yes, sir.

Q.—If there were any sacks or barley stolen, was he not to blame for the loss of them?

A.—Yes, sir.

Q.—Did you afterwards recommend the discharge of that watchman?

A.—Yes, and I sent him in myself, away from that work.

Q.—Why did you do it?

A.—Because I found him asleep in the morning, in the Seal Rock House and half drunk, in place of being at his post in the tent, taking care of that barley.

Q.—Was he discharged?

A.—He was discharged; I sent him in at the time; and I put him to work, because he begged very hard—he would not do it again, and we put him to work in a gang of workmen in here, and I never mentioned anything to you until some time afterwards. I think that was the reason you discharged him.

Q.—He was discharged, then, some short time afterwards?

A.—Yes, sir.

Q.—Soon after you told me of the circumstance of his being asleep, and so on?

A.—Yes, sir.

Mr. Carson—Then, Mr. Enright, while Mr. Hardy didn't perform his full duty in making proper reports as he should have done, and was therefore a fit subject for condemnation, you evidently followed in his footsteps, and didn't report him for his dereliction of duty?

A.—In the first place, Mr. Carson, I beg your pardon, he always rendered me full reports. I didn't testify he didn't render me full reports. I told you I found him asleep, away from his post in the morning. That was on Sunday morning.

Q.—You have said that Mr. Hardy didn't report the loss of any barley or sacks, and that that was wrong. It was a failure of duty on his part.

A.—Yes, sir.

Mr. Hall—Excuse me, sir, but he has not said that he knew there was any barley or sacks lost, or that Hardy has been derelict.

Mr. Carson—Your question was: Ought not Hardy to say so?

Mr. Hall—I said that there was sacks or barley lost or stolen; ought not he to have reported it? Long after this affair we heard Mr. Hardy say these were lost, for the first time; for after it was all over we found that sacks were lost, and after Hardy was discharged.

Mr. Carson—You occupied this position; but, Mr. Hall, you have

proven by your witness here that there were one hundred and fifty sacks lost or stolen?

A.—Yes, sir; probably more.

The Witness—Still more.

Mr. Carson—You have proven Mr. Hardy was the watchman in charge of it?

Mr. Hall—Yes, sir.

Mr. Carson—You have proven it was his duty to report?

Mr. Hall—Yes, sir.

Mr. Carson—You have proven Mr. Enright did receive what he considered full reports from Mr. Hardy?

Mr. Hall—What he thought to be full reports; yes, at that time.

Mr. Carson—But they were not full?

The Witness—No, sir; they were not.

Mr. Carson—Now, Mr. Hardy failed in duty in that regard?

Mr. Hall—Yes, sir.

Mr. Carson—Then we have your witness Enright, here, discover him asleep and drunk, and not reporting that fact to you?

Mr. Hall—He sent him away from there.

Mr. Carson—That is not the question. I just simply want this on the record here. Enright charges Hardy with a failure of duty, and not making a proper report to him; and at the same time he convicts himself of the same offense in not reporting Hardy to you.

Mr. Hall—He did report.

Mr. Carson—Yes, many months afterwards.

Mr. Hall—How long after you sent Hardy in from out there did you report that to me and he was discharged?

A.—Well, I think I did that the first opportunity that I saw you in here. I was there engaged from morning till night, out near the beach, and I had not seen you, I think, for days, just about that time; afterwards I reported it.

Q.—Three or four days after that you reported it to me?

A.—Yes, sir.

Mr. Broderick—He didn't say that. He says he thinks he told you the first opportunity he had, which he thinks might be three or four days.

The Witness—Yes, sir.

Q.—You ain't sure about that?

A.—I would not like to swear.

Q.—Now, are you as sure of that as you are you saw five dollars and twenty-two cents paid to that man?

A.—I am sure I saw it paid.

Q.—You are not sure of this exact thing?

A.—Yes, sir; sure.

Q.—You are not sure of seeing Mr. Hall three or four days afterwards?

A.—Yes, sir; three or four days afterwards. I am exactly sure.

Q.—Is there anything you can bring to mind to make us understand you're right—to believe you are correct in that; any incident that occurred?

A.—I don't think there is any particular incident.

Q.—Your record in the park shows just exactly what every man does on the park work?

A.—Yes, sir.

Mr. Hall—Excuse me. At that time they were not as explicit as they since have been—they have been made much more explicit?

Mr. Broderick—I wish they were. We could get at more facts.

Mr. Hall—How long after that was Hardy discharged?

A.—Hardy was discharged right the next day or next Saturday.

Q.—Are you sure that he was discharged the next time that men were being sent off from the park?

A.—Yes, sir.

Mr. Carson—Were you not in the habit of meeting Mr. Hall every day during that period?

A.—No, sir; I wasn't in the habit of meet Mr. Hall every day.

Mr. Hall—Mr. Enright, at that time, was Superintendent of this work for me out there, sir; and I was attending to his work in here as much as possible. I went into town at night, before he came back again?

The Witness—I would like to make a statement there: that is, I said that Mr. Hardy tendered me full reports every morning of how many sacks were used, how many sacks were on hand, and how many sacks were sent out. I could not have known whether there were any sacks were loaned or not, until we counted the sacks altogether, after the whole work was over. When we counted up, there was so many sacks missing—empty sacks, I mean.

Mr. Hall—Did you use the instruments that were here—surveying instruments?

A.—Yes, sir; I used them for about four years.

Q.—What were the principal surveying instruments that were here?

A.—There was one transit theodolite, and the level.

Q.—Were those instruments in good condition?

A.—Yes, sir.

Q.—Used here on the park repeatedly?

A.—Continually used on the park ever since. I never saw another that was used on all surveys here—excepting these two.

Q.—About what was the value of the transit theodolite?

A.—From two hundred and seventy-five to three hundred dollars.

Q.—What was the value of the level?

A.—One hundred and fifty to one hundred and seventy-five.

Q.—Are you a civil engineer?

A.—I am, sir.

Q.—Have you been educated as such?

A.—Yes, sir.

Q.—And practiced your profession?

A.—Yes, sir.

Q.—As such, are you familiar with the value of instruments?

A.—Yes, sir.

Q.—You know when they are in good condition?

A.—Yes, sir.

Q.—Could you identify these instruments?

A.—Yes, sir.

Q.—Is this the instrument? [Showing.]

A.—Yes, sir.

Q.—That is the level?

A.—Yes, sir.

Mr. Hall—The transit is in town, Mr. Carson. I will have to identify that when I get there.

CROSS-EXAMINATION.

Mr. Carson—Have you a set of instruments of your own?

Answer—Yes, sir; I have got a level.

Q.—Have you any transit?

A.—No, sir; not at the present time.

Q.—How long have you had this level?

A.—Probably five or six months.

MR. J. T. FLEMING, re-called for Mr. Hall—examined.

Mr. Hall—You have been continually in the park office during your employment there as Secretary?

Answer—Yes, sir.

Q.—You have known of draughtsmen being employed there?

A.—Yes, sir.

Q.—Have you known of those draughtsmen doing work for outside parties other than the Park Commissioners, in that office?

A.—No, sir; not during office hours.

Q.—Have you known of them doing it at all?

A.—Yes, sir.

Q.—Have you ever heard me give instructions to those draughtsmen about extra work?

A.—Yes, sir.

Q.—What instructions have you heard me give those draughtsmen?

A.—I heard Mr. Hall state to the draughtsmen employed in the office, if they did any extra work it was to be done outside of office hours, and must be paid for outside of office hours.

Q.—I understood you have heard me state that is the rule of the office to draughtsmen?

A.—Yes, sir; I have heard you state it several times.

CROSS-EXAMINATION.

Mr. Broderick—You say you never saw any work done during office hours by these parties?

Answer—No, sir; outside work.

Q.—What do you call office hours?

A.—From nine to twelve, and from one to four.

Q.—If there was any work of that kind done, it was outside of those hours?

A.—Outside of those hours.

Q.—Are you sure about that?

A.—Positive of it.

Q.—This testimony is intended to impeach the testimony of the man who said he did the work.

Mr. Hall—No, sir; not necessarily.

Mr. Broderick—It will have that effect. We want to be sure. Mr. Fleming knows exactly what he is talking about. You never saw any work?

A.—No, sir.

Mr. Hall—Were you employed as Secretary of the Park Commissioners when Frederick Mau was working in their office as draughtsman?

A.—No, sir.

Mr. Broderick—Are you supposed to be in that office, during all the

time since you have been employed there, between those hours you mentioned?

A.—I am supposed to be there between nine and twelve, and one and four.

Mr. Carson—You were not there on Saturday?

A.—No, sir. I have been sick a bed for a week.

Q.—I know I called at the office twice on Saturday, and found it locked on both occasions?

A.—I have been in bed, as Mr. Hall knows.

Mr. Hall—That is all the testimony I have ready here now, unless it is to meet some other testimony which may be presented. If there are any members of the force here, which you want on the stand, they had better be examined right away. I propose to present only such evidence as met the points at issue. I could bring a great mass of evidence as to the good management of the park.

Mr. Broderick—That is your place to do. We don't want to go back to the House, and have you say we didn't give you a chance.

Mr. Hall—Would you admit testimony as to the good conduct of the park here?—and as to whether the men got all their wages, and all that?

Mr. Carson—I give you a chance to take advantage of the good will of the committee. You can take every opportunity to bring testimony forward to prove the good administration.

Mr. Hall—Unfortunately, the witnesses are not here. I have only asked to examine such witnesses as are personally cognizant of the points brought out. As to bringing in general testimony with regard to the good conduct of affairs at the park, I didn't think you would take the time to listen to it. It would take up a great deal of time, although I would like to introduce it; but these other things are more important, and the witnesses I have mentioned in that communication are those who know of these points, and I suppose there are even more there now than you will be able to get through with.

Mr. Carson—Have you any further witnesses?

A.—No, sir.

Q.—You don't desire to examine any men employed on the park?

Mr. Hall—If you will admit testimony as to general good conduct of affairs; if you want to hear such testimony as that, I can bring in all the men here.

Mr. Carson—I don't think that would be admissible under the charges. I have no objection, although I don't think that much information could be gained from the lower grade of laborers as to the management of the park.

Mr. Hall—If it is necessary for me to bring in any testimony of the men on the park I will send for them and bring them in before the testimony closes in town.

Mr. Carson—Very well.

JOHN FITZGERALD called for the committee, sworn and examined.

Mr. Carson—What is your name?

Answer—John Fitzgerald.

Q.—Are you employed by the park?

A.—Yes, sir.

Q.—For how long a time passed?

A.—Since eighteen hundred and seventy-two. I think a little over four years.

Q.—In what capacity?

A.—Well, helping the gardener.

Q.—Gardener help?

A.—Yes, sir.

Q.—Do you know anything of any trees having been cut down?

A.—No, sir; I was not with the men. I generally used to take care of the grass here and wasn't along with the men. I was all alone most all the time there.

Q.—Do you know of any trees having been cut down and hauled out to the sand-beach?

A.—Well, I don't know, sir. I saw some going by, but I don't know what was the case or where they got them from.

Q.—You had nothing at all to do with that business?

A.—Nothing. I didn't work with that gang at all. I generally took care of the grass all around here.

Mr. Hall—Mr. Fitzgerald's duty, exclusively, is taking care of the grass.

Mr. Carson—Do you know anything of planting of trees out at the beach?

A.—No, sir; nothing at all.

Q.—You know nothing excepting about the grass.

A.—That is all. I never was out there to plant a tree or nothing. I never was outside as far as that knoll in my life yet. I don't know nothing at all about it.

Q.—Did you plant any barley?

A.—No, sir.

Q.—You know nothing of that?

A.—No.

Q.—Of the barley question?

A.—No, sir. There is one thing I know, if you have no objection to it. I was accused here of being— Some people said that I must have some friends, or I must give some bribes here, for something kept me here at work all the time.

Mr. Carson—The committee knows nothing about that, Mr. Fitzgerald.

The Witness—I would like to satisfy the committee and everybody around.

Mr. Carson—One moment. I will take the sense of the committee as to whether that comes properly within their purview or not. [The committee say it does not.] There is nothing of the kind before us, Mr. Fitzgerald; if there should be, we will give you an opportunity to make such an explanation as you see proper.

ALEXANDER ANDREWS, called for the committee, sworn and examined.

Mr. Carson—You have been employed in the park?

Answer—Yes, sir.

Q.—What time?

A.—I have been here two years and five months.

Q.—Until when?

A.—Until the first of this month,

Q.—Were you discharged then?

A.—Yes, sir.
 Q.—In what capacity were you employed?
 A.—I was watering trees and planting trees.
 Q.—As a gardener?
 A.—Around with the gardener; I was not a gardener, I was working with the gardener.
 Q.—Do you know of any trees having been cut down?
 A.—Yes, sir.
 Q.—Tell us what you know about cutting down trees?
 A.—Well, I have cut down a good many myself.
 Q.—How many.
 A.—I didn't keep no account of them.
 Q.—About how many?
 A.—I suppose altogether in the neighborhood—it must have been in the neighborhood of two hundred altogether, as far as I know. I didn't cut down that many myself.
 Q.—How long were you employed in cutting down trees?
 A.—I would cut down one, or something, and take it away.
 Q.—What kind of trees did you cut down?
 A.—Pines, most generally.
 Q.—Whereabouts were they?
 A.—Right around here. Just about around here.
 Q.—Close by here?
 A.—Yes, sir.
 Q.—Pines chiefly, you say?
 A.—Pines; yes, sir.
 Q.—What age were the trees that you cut down?
 A.—Well, I cut down some, I suppose—well, I suppose, they stood as high as ten or twelve feet high. Some of them were small.
 Q.—What was done with those trees after being cut down?
 A.—They were taken away on teams.
 Q.—To where, sir?
 A.—I understood taken to the beach. I don't exactly know where. I wasn't out there.
 Q.—By whose order, if any, did you cut these trees down?
 A.—Mr. Poppie, the gardener.
 Mr. Barber—Were those trees alive you cut down?
 A.—Yes, sir; they were.
 Q.—In good health?
 A.—They were good trees.
 Q.—What reasons, if any, were given you for cutting down these trees?
 A.—There were no reasons given me at all.
 Q.—You were just told to cut them down?
 A.—Yes, sir.
 Q.—Do you know if any other trees were planted in their places?
 A.—No; not in the same place they were cut down—they wasn't. Very few were planted in that same place.
 Q.—They were not?
 A.—Not to my knowledge.
 Q.—Why do you say there were very few planted in the same place?
 A.—I understood other men planted some. I didn't plant any in the same place.
 Q.—Did you plant any in the immediate vicinity?

A.—Yes, sir.
 Q.—How close?
 A.—There were trees planted all around here.
 Q.—How close to where the trees had been cut away, how close to that particular spot did you ever plant any trees?
 A.—I never planted any right there at all.
 Q.—How far away?
 A.—Well, I suppose, there were trees planted in the neighborhood of ten or twelve feet of it.
 Q.—Trees of the same kind?
 A.—There was pines, and cypress, and gums, and all kinds of trees.
 Q.—Well, were a pine tree was cut down, was there, to your knowledge, any pine trees planted within ten or twelve feet of the same place?
 A.—No; I do not believe there was. I don't think there was any pines planted there.
 Q.—When were these trees cut down?
 A.—They was cut down all this winter, and in the fall some of them.
 Mr. Broderick—You say you cut down these trees in the neighborhood of that tank, out there?
 A.—No, sir; right at this flat here.
 Q.—This open flat before the house?
 A.—Yes, sir; right there; right back of that place there, between here and the bend to the west of the lodge.

CROSS-EXAMINATION.

Mr. Hall—Were those trees cut down in thinning out the clumps?
 Answer—Yes, sir; there were some of them cut down that way.
 Q.—Why were the others cut down?
 A.—I don't know. The others were cut down, I believe, over on the other place. I had nothing to do with that. Mr. Poppie didn't tell me why he had them cut down at all.
 Q.—In cutting down those trees, did you thin out the clumps?
 A.—No, sir. I cut down sometimes where there wasn't any clumps.
 Q.—Did you cut out any in thinning out the clumps?
 A.—Yes, sir; there was some cut down in thinning out the clumps.
 Mr. Carson—Did you cut down any stakes there?
 A.—No, sir; no stakes.
 Q.—Did you see any stakes cut?
 A.—I did.
 Q.—Stakes supporting trees?
 A.—Certainly, sir.
 Q.—How many?
 A.—I could not tell how many. I believe there was a great many of them.
 Q.—Whom did you see cutting stakes?
 A.—I saw the man—I don't know his name. He is working for Mr. Poppie, I believe. He is a German, and his son was cutting down. I was watering at the time those trees were cut down, or stakes, I mean. I saw them. Right straight over here was the only place I ever did see them cut down.
 Q.—Then there were three persons employed in cutting stakes down?

A.—I could not say whether two or three.

Q.—And Poppie's son?

A.—I think it was. I am not certain. I wasn't close to him. I saw him at the time he was cutting them, but I wasn't close to him.

Q.—Could those stakes have been pulled up?

A.—Yes, sir; I could pull them up.

Mr. Hall—Could they have been pulled up at that time?

A.—Yes, sir; I pulled up stakes just like them before.

Mr. Carson—When those stakes were cut, were those trees left unsupported?

A.—They was.

Q.—Entirely?

A.—At that time; yes, sir.

Q.—Were not other supports put to the trees?

A.—They were wired; some of them afterwards and some of them were staked over again.

Q.—Do you know of any trees having been blown down by reason of the stakes having been taken away.

A.—Yes, sir; there were some blown down.

Q.—Were the stakes cut away from them?

A.—Yes, sir.

Q.—How many?

A.—I could not say. I didn't go to them to count them; see some of them on my travels, were I have been watering. I wasn't after paying any particular attention to them.

Mr. Hall—Is it not necessary to restake a tree after the stake has been by it for some time, and to place the stakes farther away from the tree?

A.—That might be necessary; but when we put large stakes in, I guess they were meant to stop there.

Q.—How close were those large stakes up to the trees?

A.—Some two inches, three inches and so, away from the butt of the tree.

Q.—As the tree grows, would not the stakes be too close to the tree?

A.—Well, you see the roots of the tree grows around the stake anyway, and I don't see that you could better it much by pulling it down—so far as my judgment goes.

Q.—Might those stakes not have been in the way of the growth of the tree by remaining there?

A.—They might have been, but so far as my judgment goes I don't think they was. I could not swear to that, because I am not gardener enough.

Mr. Carson—Do you mean so far as the roots are concerned?

Mr. Hall—In the way of the roots, but more particularly in the way of the tops of the trees; the bottom part of the stakes will decay in the ground, and the roots go right through, but the top of the stake was too close to the tree in many instances, and had to be moved further away, and a larger stake put in.

MICHAEL BURKE, called for the committee, sworn and examined.

Mr. Carson—Have you been employed on the park?

Answer—Yes, sir.

Q.—Since when?

A.—Three years last October.

Q.—Are you still in their employ?

A.—Yes, sir.

Q.—In what capacity?

A.—Sir?

Q.—What is your business here?

A.—A driver.

Q.—Did you ever haul any barley?

A.—From the city here?

Q.—Did you ever haul any barley off the park here?

A.—Yes, sir.

Q.—Do you use your own team, or one of the park's teams?

A.—I use one of the park's teams.

Q.—You have always used one of the park's teams?

A.—Yes, sir.

Q.—Did you ever haul any barley out here to the sand beach?

A.—No, sir.

Q.—Did you ever haul any down to Enright's house?

A.—I don't know whether I hauled the feed down there or not. I could not positively swear whether I did haul feed there or not. May be a feed, may be two feeds.

Q.—From where?

A.—From here.

Mr. Hall—Didn't you know that Mr. Enright was allowed the Park Commissioners' feed for his horses, and feed was taken there to his house to feed his horse?

A.—Yes, sir. I knew there was no stall for his horse at the time, and took those two feeds down to him?

Q.—What do you mean by those two feeds?

A.—A feed for his horse; a feed of barley or oats—I don't know whether barley or oats—for his horse.

Q.—Is that all the barley or oats you ever hauled?

A.—Well, I don't know whether it is or not. There may be more and may be less, for aught I know. I can't remember in two or three years.

Q.—Was your team employed at all, at any time, to haul barley out to the beach, out here?

A.—No, sir; I never hauled none out there.

Q.—Did you ever haul any barley from town?

A.—No.

Q.—The only barley, then, you hauled, or oats, were these two feeds you say were taken for Enright's horse?

A.—Yes, sir. I don't know whether two feeds or three feeds. May be one feed, for all I know.

Q.—What is a feed of barley? How much is it?

A.—About six or seven pounds.

Q.—Did you haul hay down there?

A.—I took a bale of hay down.

Q.—What else?

A.—That is all I know of.

Q.—Tell us everything you have hauled from the park down to Enright's house, or any other place.

A.—I am telling you just as fast as you ask me.

Q.—Now I ask you the general question. Just tax your recollection a little, and tell the committee everything that you ever hauled from the park to Enright's house, or any other place outside of the park.

A.—I have not hauled any to any other place outside of the park.
 Q.—What else did you haul to Enright's?
 A.—I hauled nothing else.
 Q.—Excepting one bale of hay?
 A.—One bale of hay I think it was.
 Q.—When was all this?
 A.—Well, I don't know. Something about eighteen or twenty months ago. I guess later than that.
 Q.—This hay and barley and oats belonged to the park?
 A.—I suppose so.
 Q.—Where did you get it?
 A.—I got it at the stable.
 Q.—Who gave it to you?
 A.—The stableman.
 Q.—Who ordered you to take it down there?
 A.—The stableman said he had a right to get it for his horse. A feed for his horse, or something. There wasn't room for him in the stable.
 Q.—Who owned that horse, if you know?
 A.—That I don't know. His own, I suppose.
 Mr. Broderick—Who was this stableman that gave you the orders to take this barley? What was his name?
 A.—McGlynn.
 Q.—Is he working here now?
 A.—No.
 Q.—Do you know where he is?
 A.—I do not.
 Mr. Carson—Did you ever haul any trees that had been cut down?
 A.—No; I hauled brush.
 Q.—Where did you get it?
 A.—I got it all around here.
 Q.—What do you mean by brush?
 A.—I mean brush they cut out of their way cleaning up.
 Q.—Did you ever haul any pine trees among that brush?
 A.—May be some cutting amongst it; they cut off the trees.
 Q.—Did you ever haul any gums or cypress?
 A.—Brush and cypress, and everything else amongst it, just the same.
 Q.—You never hauled a whole tree, though?
 A.—No; I did not.
 Q.—Where did you haul these things to?
 A.—Hauled them out in the sand to cover the sand where it was sifting.
 Q.—Did you always haul them within the limits of the park?
 A.—Yes, sir.
 Q.—Did you ever haul any a ways out of the park?
 A.—No.
 Q.—Outside of the park lines to the south?
 A.—No; I did not.
 Mr. Raich—Do you know the park lines?
 A.—Well, I could not exactly know where it was, but the furthest I hauled them was right opposite Strawberry Hill. I think that is pretty near the center of the park; right opposite Strawberry Hill.
 Q.—That is the furthest you hauled them?

A.—That is the furthest I hauled them. I hauled some out, pretty near to the beach, on further than that.
 Q.—Is Strawberry Hill in the park?
 A.—Yes, sir; I believe it is.
 Q.—You are positive, though, you never hauled any large trees that had been cut down?
 A.—No, sir; I didn't haul no large trees.

WILLIAM HAMMOND HALL, recalled in his own behalf, testified as follows:

There was barley and hay taken from the park stable and carried to Mr. Enright's stable. Whether Burke hauled it or not I don't know. It was taken there under a resolution of the Park Commissioners, which will be found on their minutes, I don't know the date of it now, authorizing or, rather, allowing Mr. Enright feed for one horse from the park stable. An account was kept of that feed, and the park-keeper's account and the Secretary's account, too, I suppose, will show how much he got; at all events, he received feed for one horse—probably about twelve or thirteen dollars' worth a month for a year and a half or two years.

Q.—That was his own private horse?

A.—That was his own private horse, but a horse he used around here every day in his employment as engineer of the park, or as assistant engineer of the park. He used to have to go from the lower end of the avenue here out to the beach, sometimes once or twice a day, and his horse was used for that purpose, and had the Park Commissioners been in funds it is very probable they would have supplied him with a horse. He supplied his own horse, and the Park Commissioners allowed, I think, to my recollection, about twelve or fourteen dollars' worth of feed a month.

Mr. Broderick—About what time was that? How long ago was this they allowed that to him—eighteen months or more ago?

A.—My recollection of it is, I think for more than a year and a half?

Q.—Previous to a year ago, or previous to eighteen months?

A.—Yes, sir.

Mr. Carson—Hadn't he been getting this feed for a long time before the Commissioners made that resolution, allowing him this feed?

A.—No, sir; he may have been getting the feed for a few weeks before that, for I know I submitted the matter to the Park Commissioners, and they said all right; and the next meeting that they had this resolution was passed. There may have been feed went to his house, say once, before that. It was all covered in that resolution.

Q.—Was he allowed a man to take care of his horse?

A.—No, sir. He boarded down here at a place where the men were, and I am pretty certain one of the men who boarded there at the same place used to clean Enright's horse and take care of him. That was a private matter outside working hours. I suppose he paid the man a little of something for it. As to those trees being hauled out there, I don't know that I have stated it distinctly in my testimony, but I wish to state now, that there was brush and trees hauled from here on the park on to the great highway reservation, which is also under the control of the Park Commissioners, and which they are improving by building this brush fence. This trees and brush was hauled there, but none of it was ever put any place excepting

on the highway reservation or on the park. It is very easy to tell where the brush is by going out there and looking at the lines. I will take you, gentlemen, out there, and show you that this brush fence is built on such a position. It is on the highway reservation.

Q.—This brush fence along the highway reservation was on the eastern side of that highway; was it not?

A.—No, sir; about one hundred feet from the eastern side of it, you will find in the report.

Q.—One hundred feet west of the eastern side.

A.—One hundred feet west of the eastern side. You will find in the second report of the Park Commissioners an explanation of the manner proposed, and manner of reclaiming that sand, and how it was said that we were going to stay the sand from coming in.

Q.—Oh, yes; I remember that.

A.—The purpose here is, for instance [showing], the beach running about here, for the purpose, a sand-hill like that will be made, and it will be finally improved like this. Now, this eastern line of the reservation here, this cross section, now that first brush fence is built out here, about one hundred feet out from that line. That is supposed to be two hundred feet wide from low water, or a little more. This first brush fence is built out here about one hundred feet. The result is, we have the sand piled up in about that shape you see there. Now the brush fence will be raised up, and probably another brush fence will be built out here some place, as we fight the water back, you know; and that will result, in the course of six or seven years may be, in making this sand hill, which is intended to be improved by planting on the outside here, beach grass that grows in the salt water, and making a road on top to take the place of the beach. The beach will be destroyed then, that is, be destroyed for driving, as it will be too steep, and making this road up here to take the place of it. And instead of this one hundred feet I have left there, they propose putting in another road sixty or seventy feet wide. Below that brush fence is intended—had we had the brush it would have been built all the whole length of the beach before this. The Commissioners have been pressing me to continue that along. In the first place it is desirable to build the full length of the beach at once, in order to have the improvement uniform. We can't make the sand come in any faster than nature brings it in. One portion of the beach gets the start of two or three years of another portion; it would not be uniform; one portion will always be two or three years behind the other, the sand coming in and banking up against the brush already put there gets so much ahead; that is the way it is now. Had we had brush available, it would have been built the full length. The fact is, it was the intention to continue that brush fence this spring up north to that house there—the Long Branch House. It is the intention to extend that brush fence north from the park to the Long Branch House this spring.

[Recess until half-past three, to meet at the office in the city].

AFTERNOON SESSION.

Present—Messrs. Carson, Barber, Broderick, and Raisch.

JAMES BAILEY, called by Mr. Hall, sworn and examined.
Mr. Hall—What is your business?

Answer—Raising forest trees.

Q.—How long have you been in this business?

A.—Well, I have been very extensively engaged in it nearly a year now. I have been raising them off and on nearly two or three years.

Q.—Have you made a specialty of raising gum trees for the market?

A.—Yes, sir; I have made a specialty of raising gum trees and nothing else; that is, except cypress.

Q.—Do you consider yourself an expert on the subject of the gum tree, and its culture in California?

A.—I have given it a great deal of study.

Q.—How many trees do you suppose you have raised for the market?

A.—I have raised some four hundred thousand.

Mr. Carson—How long a time have you been engaged in the business?

A.—I have been engaged about three years.

Q.—Where?

A.—In Oakland.

Q.—Are you still engaged in the business?

A.—I am, sir.

Mr. Hall—Are you familiar with the market price of gum trees?

A.—Sir?

Q.—Are you at all times familiar with the market price of gum trees?

A.—Well, I think I am, sir.

Q.—What was the range of prices for gum trees, for foresting purposes, in this market, delivered in this city, during the last part of December, eighteen hundred and seventy-five—the range from the lowest to the highest price?

A.—Well, our price has been from thirty dollars to forty-five dollars a thousand. We have sold some little seedlings, in boxes, I mean, and plants suitable for plantations—we have sold a great many at forty dollars a thousand. Other I have sold as high as five cents; from three and one-half to five cents has been my regular rates.

Q.—You say you have sold some little seedlings?

A.—Sold some little seedlings in boxes—not more, perhaps, than an inch and a half or two inches high—ten dollars a thousand.

Q.—How is it that these gum trees may range from this low price up to forty-five or fifty dollars in price?

A.—It is entirely on account of the amount of labor in handling the trees. Low price trees, we sow the seed and pull up the weeds as necessary, and that is all the care that they have. There is more profit in a ten dollars a thousand tree than there is in a forty dollars a thousand tree. I had rather raise trees for ten dollars a thousand—those seedling trees at ten dollars a thousand—than such as I have been selling, from ten to sixteen inches high, at forty dollars a thousand.

Q.—Did you visit Golden Gate Park some time ago with a view to inspect some trees that had been planted there?

A.—Yes, sir.

Q.—At whose request?

A.—At your request.

Q.—Did you see a certain large lot of blue gum plants recently set out on the reclaimed sand district on the western end of the park?

A.—I did, sir.

Q.—Did you examine them?

A.—Yes, sir; I got out of my buggy and examined them.

Q.—What would have been a fair price for those gum trees in the market of San Francisco, boxes not sent back?

A.—Have you reference to the trees that were planted this year?

Q.—I have reference to trees that were planted this year.

A.—Oh, those that I saw on the right hand side as you go out, I suppose.

Q.—Yes.

A.—Well, I have been selling that quality of plants at four cents—forty dollars a thousand.

Q.—You have been selling them for four cents—delivered where?

A.—I have been selling them for four cents. I think in some cases I may have delivered in San Francisco, but I have sold them at my nursery.

Q.—For four cents, also?

A.—Yes, sir.

Q.—Then you consider those trees worth four cents?

A.—I do, sir.

Q.—In the market, say you sell them for that price? That has been your price?

A.—I do, sir, consider that quality of plants worth four cents.

Q.—Did you examine a lot of gum trees planted in that sand desert a year ago, which you were told were planted a year ago?

A.—Yes, sir.

Q.—What was their condition?

A.—They looked very well—looked healthy—those that I saw.

Q.—Do you think that these gum trees will live and thrive on these sands?

A.—Yes, sir.

Q.—Do you ever contract to plant out blue gums, and take pay for those that live and thrive only—guaranteeing the plants, I mean?

A.—Well, I do take contracts to plant and guarantee all the trees that I plant? By contract, is that what I understand you? or, in other words, I take contracts both ways. I guarantee the trees if necessary. If I get price enough I guarantee the trees, and in other cases I sell the trees, and don't guarantee them. Yes, sir; we make a bargain.

Q.—What kind of contracts do you take to plant out gum trees?

A.—I have taken contracts with Mr. Bowman, of Piedmont, to put out twenty thousand trees, or over, for which my contract reads, and he pays me eight cents a tree—the same size trees, or less size than those that are put out—those that I saw out at the park. He pays eighty dollars a thousand; that is my contract with Mr. Bowman.

Q.—Well, pays you that, when?

A.—Pays me four hundred dollars as the work progresses; the balance he pays me next August.

Q.—What are the conditions of payment of that balance?

A.—The conditions of the payment?

Q.—Yes, sir.

A.—The conditions of the payment are, that I furnish and prepare the soil and plant the trees, and I receive eight cents per tree for all trees that are living—the trees that die, I replace at my own expense.

Q.—Would you contract to forest the reclaimed land, or part of the

land; that is, the portion that had this lupine planted on it out in the sand?

A.—Yes, sir.

Q.—Would you contract to plant trees on that upon the same conditions that you have in this instance that you have mentioned?

A.—I would, sir; I will plant forests out there and guarantee every tree to live; or, in other words, I will take a contract for planting in that land. I will plant one hundred acres in forest there—they only to pay me for the trees that live.

Q.—At the same rate you would anywhere else?

A.—I would the same rate I would anywhere else after the land is graded; or, in other words, after the land has been subdued by lupine, or whatever it is, so that it would not drift.

Q.—After it is in the condition you saw it, where those trees were put, is that what I understand?

A.—Yes, sir; I would take a contract of that kind.

Q.—You think, then, there is no doubt of blue gum growing as surely on those sands as on any other land that you have planted it upon, or do you think so?

A.—I think they would make a larger growth in the land, but I have no doubt about their living, planted the proper season.

Q.—Is there always a proportion of those trees planted which it is necessary to cut away as they grow up.

A.—Well, in case you want to enlarge the growth, and they are too thick. If you want to enlarge the growth of the remaining trees, then it is necessary to thin out.

Q.—It is usual to plant trees thicker than it is intended ultimately to stand?

A.—Yes, sir; I think it is an excellent plan; there is one or two advantages. I advocate planting a forest thicker than it is intended to remain, for two reasons; one reason is, it shades the ground, and prevents it from drying up so fast; another reason is, the trees protect each other, and they are more apt to grow straight, and less liable to grow over and get crooked.

Q.—Can you understand, then, how some hundreds of trees may have been cut down in thinning out the plantations made at Golden Gate Park two or three years ago?

A.—Well, trees require thinning out, when you want the other trees to grow large; in such case it is necessary to trim some out.

CROSS-EXAMINATION.

Mr. Carson—Do you consider it economy to plant valuable trees in that thick, close manner, having in your mind the same time a deliberate intention to destroy those trees when they have attained a certain growth, and after they have had the same amount of care that the ones you intend to remove have had?

A.—Well, valuable trees—that somewhat depends on their value to some extent.

Q.—Presuming all the trees planted in this thick plantation were of the same value, do you consider that economy?

A.—If the trees are very costly, if they cost him quite a large amount—why, expensive trees, very expensive trees, I should not plant them very thick.

Q.—Don't you consider it would have been extravagance—down-right waste?

A.—It depends on the value of the trees entirely, sir.

Q.—And don't you consider it absolute extravagance and waste to plant trees with intention in your mind of their ultimate destruction?

A.—Not gum trees, I do not, sir.

Q.—Well, gum trees, cypress, and pines?

A.—Well, if the trees were going to cost five dollars, six dollars, or eight dollars, possibly it would not be policy to plant them to destroy them. Were trees cost a few cents it makes a large difference.

Q.—Yes; but you must take into account the care that has been expended during all these years in bringing the tree to that state of perfection—the same state of perfection that the tree is in that you will remove—take that into account, also, sir?

A.—Well, the price of those trees that have been set out I know nothing about, only all I know is, it is necessary when trees are very thickly together, and if you want to thrive the growth, to make the trees enlarge their growth, it is necessary to thin out.

Q.—Do you consider it good policy to continue that close planting when you have in your mind the ultimate destruction of the tree, valuable or not, as it may be?

A.—I consider when trees are very valuable I should not plant very thick to destroy them; it would be too expensive; but you take the cypress or the blue gum, an inexpensive tree, it is very different.

Q.—In other words, are we to understand that you would propose planting two or three trees, and taking equal care of all for the purpose of having one tree at the end of four or five years; would that be your policy, sir?

A.—Well, it depends on the tree altogether, sir.

Q.—Presuming all the trees to be of the same kind?

A.—If I was going to put in a Norfolk Island pine, and some very choice trees, I certainly should not put them very thick together with the idea of taking a portion of them out. If I was going to put out cypress, small price trees, and I required to shade the ground where it was very windy, I think it would be advantageous to put them thick and then thin them out. I should be governed by the locality a good deal.

Q.—You are engaged in raising and selling these trees, are you not?

A.—Nothing but the blue gum trees; nothing else, sir.

Q.—The course pursued with reference to blue gum trees has been rather advantageous to you has it not?

A.—It has not, sir.

Q.—Well, I am speaking of the course pursued at the park?

A.—No, sir.

Q.—That is, planting two or three trees with the idea of reaping the advantage of one in the end.

A.—In regard to its being a profitable business?

Q.—That is, in other words, it increases the blue gum tree trade?

A.—Yes, sir; it increases the blue gum tree trade.

Q.—That system?

A.—Yes, sir; that system increases the blue gum tree trade. I didn't know whether you considered it to be profitable business.

Q.—No. This was merely looking to the increase of the business, following out this system. Now, is there no other way by which this

direct action upon the ground about these trees could be arrived at without involving this destruction of trees?

A.—Well, I am not conversant with the climate and the winds, and so forth, in the park; of course manuring can be put around trees, and litter, one thing and another, to keep the ground from drying up.

Q.—That would save the ground portion of the affair?

A.—That would assist materially; yes, sir.

Q.—Could not stakes be used for the purpose of keeping the trees straight, and then when the tree had attained sufficient strength to sustain itself, could not the stakes be withdrawn from them with perfect safety. I speak of this as a substitute for this planting and cutting plan?

A.—Well, I have always looked upon staking trees, in my experience, as very detrimental to a tree; I disprove of staking a tree, if you can possibly raise it without; it has the effect of setting all the limbs on one side of the tree, and the trees are very liable to be neglected and to get cut with the cord that fastens the tree to the stake; very apt to be neglected and make a decayed place on the tree.

Q.—But still wouldn't that system be less expensive than the other?

A.—Well, that depends on the price of the tree altogether—it depends on the price of the tree altogether.

Q.—Well, sir, I desire a little of your experience now, and a little of your judgment on this question. Taking the natural condition of a portion of the park out there, with reference to the amount of shrubbery that is there already naturally, might not a sufficient number of these trees have been planted there among this shrubbery and protected from the wind until they had attained sufficient strength to be transplanted somewhere else, where they could subsist alone?

A.—That is, raise the trees right there?

Q.—Yes. Might not that have been done?

A.—Could not that have been done, you say?

Q.—Yes. May it not be done to-day?

A.—Oh, a person can construct a nursery in any place.

Q.—Well, I merely mention this in comparing it with raising trees and cutting them down—that system; I am looking at it now in an economical light?

A.—Yes, sir. Well, that is, if you judge whether you raise trees or not—

Q.—I want your judgment?

A.—I am not a tree sharp. What is it you want to ascertain?

Q.—Taking the natural condition of a portion of the park out there, with reference to the amount of shrubbery that is there already naturally, might not a sufficient number of these trees have been planted there among this shrubbery and protected from the wind until they had attained sufficient strength to be transplanted somewhere else where they would subsist alone?

A.—Well, it is a pretty hard question to answer; my business is raising gum trees. Well, now, to raise those trees and transplant them among that shrubbery in that sand—

Q. [Interrupting]—No, you mistake. To raise them among the shrubbery and then transplant them where you wish to use them finally; you have got it wrong end to, now.

A.—Yes, I see. Oh, that might be done to some extent. I think trees could not be raised to an advantage in that sand. I think they

would not make fibre. I don't think they would make fibre sufficiently to justify in removing; I think the soil is too poor.

Q.—Couldn't the soil be strengthened there as well as anywhere else?

A.—Oh, certainly it could; it could be manured and strengthened; but I don't think it would be economy to transplant trees among those shrubbery and then remove them; I don't consider that that would be economy.

Q.—Why not, sir; they do it in other localities out there?

A.—I should rather raise them in a regular nursery; ground prepared as it ought to be for nursery purposes.

Q.—Well, you appear to avoid the purport of this question; that is, the economy of planting a large number of trees and then cutting down two-thirds of them for the purpose of leaving the other third remaining there; in other words, you plant trees there to protect each other?

A.—Yes, sir.

Q.—And then, when by their mutual protection of each other, they have grown to a certain point, you destroy two-thirds of them, say; now my suggestion to you was this: why not plant those trees that you desire to raise—why not plant them among the natural shrubbery already on the ground, and then when you have arrived at a certain state of perfection, transplant them wherever you want to use them, and avoid this destruction that we have just spoken of?

A.—Well, those trees, as I have said before, they can plant them among this brush that is grown up there among those hills, but I think it would not answer the purpose. But if there was a nursery started there, or ground properly prepared to raise those trees so that the roots would fibre, and they could be taken up with a sufficient amount of earth, after a sufficient amount of labor has been put upon them to put them in good condition, that would answer very well; but to plant them—mix them in on those hills, and take them from there and transplant them, I think they would not fibre enough to rehandle with safety.

Q.—You need not take the hills for this purpose; there are other localities there besides the hills that you refer to; couldn't it be done in the valleys?

A.—It could be done in the valleys, certainly; you can construct a nursery any place.

Q.—Well, the kind of nursery I speak of among the natural shrubbery, for the purpose of protection that appears to be so much needed.

A.—You can raise trees in the Golden Gate Park and transplant just as well any other place, providing the—

Q. [Interrupting].—Well, I think that is about all.

RE-DIRECT EXAMINATION.

Mr. Hall.—Is it advisable to plant trees very small, in the position where they are to stay?

A.—It is, sir; decidedly so.

Q.—Isn't it considered the smaller you plant a tree in the position where it is intended to stay, the better it is?

A.—It is, sir.

Q.—What is the cost of the blue gum set out in the ground, or the cost of such trees as you saw out there, when they are in the ground?

A.—Well, I can't give you any better idea than the contract that I have already stated.

Q.—That is eight cents?

A.—Eight cents a tree.

Q.—When you plant trees about four to six feet apart, in a windy place, wouldn't it be necessary to stake them?

A.—A windy place is somewhat indefinite; in some places it is somewhat windy, and in other places it is extremely so. Where it is extremely so, I think the stake is necessary, although I always avoid staking if possible.

Q.—Where you saw those trees planted there in the park, is it necessary to stake the trees—those little gum trees that were planted out this year?

A.—No, sir; I think not.

Q.—Would it be necessary to stake those trees if there were about one-third planted on the same ground—very much more space between them—or would it be any more necessary?

A.—Well, it would be; yes, certainly; the less protection there was, it would be necessary to stake them; the thicker they are, the less it requires stakes.

Q.—Now, how much will it cost to put a stake in the ground and a tree tied to it—a stake, say, four feet high above the ground, somewhat over a foot in the ground?

A.—There is a wide range for stakes.

Q.—Well; a stake, say, a little more than an inch square at the butt—as small a stake as you can put to such a tree?

A.—How tall do you say?

Q.—Four feet above the ground.

A.—It would want to go about two feet in the ground.

Q.—A foot and a half—a stake put in a tree and the tree tied to it?

A.—The rough stake, I suppose? Well, I couldn't say exactly, somewhere in the neighborhood of six or seven cents.

Q.—Six or seven cents for the stake?

A.—Yes, sir.

Q.—And put it in the ground, how much more?

A.—It would be hard to tell; I should think about six to ten cents would cover all the costs of a little rough stake—I would have to go into a calculation as to how much lumber there is in it, which I have merely guessed at.

Q.—Would trees planted out further apart, say one-half the number of trees planted on the same ground and staked up, make as well-formed, well-shaped trees, and make as good growth, as twice as many trees planted on the same ground, with a view of thinning them out when they commence to interfere with each other, when not staked up?

A.—Which will make the best forest?

Q.—Which will make the best forest?

A.—Those that are put in the thickest.

Q.—And not staked?

A.—And not staked; yes, sir.

Q.—Now, would not it cost more to raise trees to a larger size in a nursery, such as Mr. Carson speaks of, that has some portion of the ground there that is protected by bushes—raise them to a larger size, and then transplant them again out into the sand, than to have

planted out twice the number of trees in the first place, immediately in the sands, and cut out a few of them?

A.—Yes, sir; the large trees would be much more expensive in my experience, and not make near as good trees.

Q.—Isn't there a great risk in transplanting larger trees?

A.—There is, sir. Well, great risk; there is very much more risk. A large tree, with a very large ball of earth around it, and handled carefully, and a good deal of pains taken in raising and transplanting, is pretty sure to live. This requires a great deal of extra labor.

Q.—Well, that would require the preparation of the ground, wouldn't it, so that a ball would stick to the tree. You could not take up a large tree with a ball of sand unless there had been soil put in, could you?

A.—No, sir, you could not. You could not take up a large ball of earth, with a tree grown in that sand any way; it would make very long roots, and no fibres scarcely.

Q.—Then would it, or would it not, cost more to raise trees to a larger size in a protected spot, and plant out, say five thousand, to grow on the sand, than it would to plant the trees immediately from the boxes to the sand, twice the number to grow?

A.—That is, ten thousand would cost less than five thousand.

Q.—Yes, ten thousand small trees cost less than five thousand large trees that would be transplanted the second time.

A.—Yes, sir, it would cost very much less; indeed, much less than that.

Q.—Now, would it cost to plant out fifteen thousand to the acre three times as many as the small trees on the sand immediately—the kind that are generally planted—then these large trees should have been raised to the protected spot, not even taking into the consideration the preparation of the ground that would have to be gone through in this protected spot.

A.—That is, will three small trees cost no more to plant than one large one? Is that what I understand?

Q.—Yes; when you get your forest established—your young forest established of trees—will it have cost less or more to have established it by putting out fifteen thousand of these small trees to the acre, in exactly the place where it was required to be, or raising five thousand of the larger trees on a protected spot and transplanting them in the sand?

A.—The fifteen thousand trees will cost very materially less than the five thousand.

Q.—Would they, or would they not, make a better forest?

A.—Yes, sir; they will make a better forest. I am now selling out my nursery trees, about six feet high, up here on Market street, from three to four bits apiece. I am selling small plants at my nursery now at five cents—that would be three trees for nine cents. I would rather have one of these three cent trees and transplant—and it will make the larger and better tree than the one I am now selling for three bits and half a dollar apiece.

Q.—By the way, is the price of gum trees any less now than it was last November?

A.—It is some less now—there is a little more competition in it.

Q.—It is getting towards the end of the season—isn't it?

A.—Yes, sir.

Q.—It is always cheaper the end of the season?

A.—Not in all cases; sometimes they are dearer; it depends on the demand altogether.

Q.—Have you sold any trees to the Park Commissioners?

A.—No, sir.

Q.—Directly or indirectly?

A.—I have sold them indirectly. I have sold trees to Mr. O'Connor for four cents; he pays the freight—O'Connor & Co.

Mr. Hall—O'Connor & Co. were the people we bought trees from.

Mr. Carson—On Sansome street?

Mr. Hall—Yes, sir.

The Witness—I think part of those trees that I sold, I don't know anything about; I suppose a portion of the trees he paid me four cents for, went out to the park; I don't know.

Mr. Hall—Mr. Bailey is not a landscape gardener, he merely raises gum trees for the market and professes to be an expert at that.

Mr. Carson—He doesn't claim to be an expert in setting out trees?

The Witness—I don't claim to be a nursery man.

RECROSS-EXAMINATION.

Mr. Carson—Do you sell large trees at three or four bits apiece?

Answer—I do, sir.

Q.—And small ones at three cents apiece?

A.—Yes, sir.

Q.—What is the reason for the difference in value?

A.—Well, the difference in value is, the three and four bit trees, I have been raising for the last two or three years, they have to be dug up and handled and sacked; the cartage is more—everything; it is attended with a great deal more expense in handling.

Q.—I suppose you include the care and attention you have expended on them, the two or three years you have been raising them?

A.—The two years, yes, sir; but it is a well-established fact now, that to raise forests—

Mr. Carson [Interrupting]—We don't care to hear any more testimony on that point, Mr. Bailey. Mr. O'Connor, that you spoke about, is the florist and agriculturist on Sansome street?

A.—Yes, sir; the seedsman.

Mr. Broderick—You say the trees three or four years of age have a value to them?

A.—Yes, sir.

Q.—Somebody has testified here that the trees three, four, or five years old, have no value at all, that it is necessary to cut them down?

A.—Yes, sir; they have a value.

THOMAS O'NEIL, called for Mr. Hall, sworn and examined.

Mr. Hall—What is your business, Mr. O'Neil?

Answer—I am a nursery-man, landscape gardener; gardener by profession all of my life, since I was seven years old.

Q.—You have been in this business how long, say?

A.—Since I was seven years old, and I am now thirty-five.

Q.—Where is your establishment at present?

A.—In Haywards, Alameda County.

Q.—What is your especial business now?

A.—Now, my especial business is raising gum trees, cypress, pine, and so on.

Q.—How long has that been your special business?

A.—Well, on my own hook, this is my first season; but I have been at it three years before. I have been for Sam'l T. Coleman & Co., at San Rafael, in a park—they are planting trees on the hills. I have been in the forest nursery for two seasons for General Stratton, and this is the fourth year.

Q.—Are you familiar with the market price of gum trees?

A.—Well, not so very well posted; I generally have my own prices, that is all.

Q.—How many trees do you suppose you have raised?

A.—This year?

Q.—Superintended the raising of; no, sir, altogether?

A.—May be five or six hundred thousand altogether. Yes, sir; I guess five hundred or more, all of that. Yes, I guess it was well on to five; between four hundred thousand and five hundred thousand—gum trees principally.

Q.—What was the range of prices of gum trees for foresting purposes, for December, eighteen hundred and seventy-five?

A.—Three and three and one-half; the general price is four cents.

Q.—What was the range of them? Were not some sold very much less than that?

A.—Yes, sir; some I heard reported as sold for very much less. Mr. Stratton was selling an inferior article for less, and there had been some other inferior articles sold as low, I heard, as ten dollars a thousand, and I had some of that kind of plants to sell myself, and I would be glad to get five dollars for them.

Q.—Now, Mr. O'Neil, how is it that the price of these gum trees may range from fifteen dollars per thousand up to fifty dollars?

A.—Well, in quality and quantity. For instance, if you want thirty thousand, you can get them cheaper than you can get five thousand or ten thousand; and according to the party that buys them. If there is no risk, of course there is a difference. We had sooner go to a rich man and make a bargain with him than with a man who is a little doubtful. We would make better terms with one with whom there is no trouble about money, who will come down and pay no sooner than to say "go." That is all.

Q.—Did you sell some gum trees to Mr. O'Connor, that you heard afterwards went to the park?

A.—Yes, sir. Well, my agent sold them. Mr. Sweeny, he sold some.

Q.—Did you know what sort of trees those were?

A.—Yes, sir; I raised them and handled them. They were the best in the market. They were the best in my nursery.

Q.—What would have been a fair price for those trees, delivered here in San Francisco, the boxes not returned?

A.—Four dollars is a fair price; but they didn't realize me that.

Mr. Broderick—The trees you bought?

Mr. Hall—Yes, sir.

Mr. Broderick—Does he know you bought those trees?

Q.—Do you mean the trees that made up the ten thousand trees at forty dollars a thousand?

A.—Yes, sir.

Mr. Broderick—Were you over here when they were sold to Mr. O'Connor?

A.—No, sir; but I received the money.

Q.—When was that?

A.—It is six or eight weeks since I got the pay for them. I know them is the trees.

Mr. Hall—What price have you sold those trees for during this last winter?

A.—I have sold them for three dollars in the nursery; and the parties bring the boxes back free of charge—take the trees from the nursery, and return the boxes.

Q.—That is, over at the nursery?

A.—That is, over at the nursery, there. The neighbors, some of them, would take them. The price varied after that. But the plants that came for the Golden State Park were the best in the nursery. They were picked. I picked them for that purpose.

Q.—Would you have sold those trees for any less than four dollars a hundred, or forty dollars a thousand, delivered here in the city?

A.—Well, I don't know that I would sell them for much less. I might come down a little. I don't suppose I would come down very much, and pay all of the freight on them, and lose my boxes. That is as low as I would sell them. Some of them brought me five dollars here in the city; trees not quite as good as those at the park.

Q.—Five dollars a hundred?

A.—Yes, sir.

Q.—That will be fifty dollars a thousand?

A.—Yes, sir; that Mr. Sweeny's books will show. He is the man that made the sales. Those were acknowledged to be the best in the market.

Q.—Have you planted out gum trees for forest purposes?

A.—Not this season, I have not.

Q.—No; I mean in your experience?

A.—Oh, I have, certainly. I have done it extensively. I have done it for Mr. Coleman, in San Rafael, on those high hills; and I have done it on gum forests out here for Mr. Stratton.

Q.—Did you plant this first forest of gum trees?

A.—No, sir; I planted the second one.

Q.—For Mr. Stratton?

A.—Yes, sir.

Q.—Is it your custom to plant trees thicker at first than they are intended to stand afterwards?

A.—Well, in some instances we have planted in that way. For instance, in landscaping—my business before starting into this—we had to plant thicker than shrubbery, with an idea of thinning out, as in General McGinn's place—the place he owns—I had to plant thicker valuable trees, with an idea of thinning them out; and he says now the trees I planted are thick, and have to be cut away if he ever gets the place again. And in Philadelphia, where I practiced at the business, I had to plant thick.

Q.—Is it usual to plant thicker than it is intended to have the trees finally?

A.—It is, sir.

CROSS-EXAMINATION.

Mr. Carson—What was the quality of the trees that Mr. Stratton was selling at reduced rates?

Answer—Well, sir, I will show you; I have a sample of the roots I

brought here, for I want to elevate the gum tree, to make a decent living out of it. And this was an inferior article sold—what is called the curly-root plants—for the tree grows up and falls over; there is nothing to support it. [Showing curly-root plants.] These were some of the plants raised before I went to Mr. Stratton, and we pulled them up in the lot. I have shown this to Mr. Stratton in his own lot; and I have here [showing] some plants that you got from the park from me. There is the Stratton plants; you see how they are curled up, and when they get to be a tree they will blow over.

Q.—What is the difference in age of that curled-root plant and these other plants?

A.—I suppose it is three or four months.

Q.—How old are these curled-root plants from the seed?

A.—That I could not say.

Q.—How old are these others?

A.—Six or seven months; and these others, I think, are eight or nine, though I didn't raise them.

Q.—Is there such a difference in size of plants, there being only a difference of two months in their ages; can such a difference in size take place as exists between the two specimens you bring here?

A.—No, sir.

Q.—Why, then, do you tell us that one is seven and the other is eight or nine months old?

A.—I don't know exactly that I said that. I said I didn't know exactly the age of these curly-root plants—I said I supposed they were eight or nine months old. I could not tell because I did not raise them.

Q.—You must observe yourself, here, the difference between these plants here and these [showing].

A.—Yes, sir.

Q.—These here being curly root, as you call them, are at least six or seven times the size of these others.

A.—They are. They may be older than I know. I didn't raise them. They were there, and planted out for Mr. Stratton, before I went there.

Q.—That is a bald presumption of yours, then, that this was about nine months old?

A.—Oh, I am not certain. I don't testify that they are eight or nine months old.

Q.—I am glad you don't.

A.—No, sir; I don't know exactly. Those [showing] were in the open ground. These were in the boxes.

Q.—You had a contract with Mr. Coleman, did you?

A.—I worked for him by the month.

Q.—What time?

A.—Two or three years ago. I guess all of four years. The time they were laying out that park.

Q.—Who was laying out the park for him at that time?

A.—I laid it out.

Q.—Was Mr. Hall engaged on the place at that time?

A.—I never knew Mr. Hall.

Q.—Were you employed by Mr. Coleman when Mr. Hall was up there at work for him?

A.—No, sir; I never saw Mr. Hall there, to my knowledge. I never saw him until he came to see about buying trees.

Q.—You have sold trees for the park?

A.—I have nothing except what Mr. Spooner or Mr. O'Connor sold. Mr. Sweeny was my agent, and they bought from Mr. Sweeny.

Q.—Speaking of this cutting down of trees—would it be cheaper to take them up?

A.—No, sir; not the gum trees; it would with some trees.

Q.—How about pines?

A.—Pines remove well if the ground is good and stiff.

Q.—How about cypress?

A.—Cypress will move the same, but not in sandy ground. It don't pay in sandy ground. Loam is good. They can be moved successfully in loam.

Q.—How long will a stake last?

A.—A redwood stick will last three or four years, and after it rots you can drive it again and use it.

Q.—For small trees?

A.—Yes, sir.

Q.—Now, sir, I want to ask you, as an expert, wouldn't it be cheaper to use stakes altogether to protect these trees and keep them straight than to plant valuable trees—pines, cypress, etc.—and then cut them down when you want to thin out, as you call it.

A.—No, sir. I think it would be better to make a good, thick belt outside, and then plant the inside thinner out.

Q.—Oh; there is another idea. You can get the protection then—plant a thick row, then, to the windward?

A.—Yes, sir.

Q.—And make all of the leeward portion thin?

A.—Then make a stiff hedge of oaks, or whatever you want, and plant the other side thin, or plant them thick and cut them off.

Q.—There would be more economy in that?

A.—I don't know; I suppose it would.

Q.—Well, it would produce just as good results, wouldn't it?

A.—About the same.

Q.—The trees would be just as well protected—those trees in the main plantation to the leeward?

A.—Yes, sir; but provided the protection was made with brakes in different places. First plant thick—plant your belt thick.

Q.—That is, to windward?

A.—To windward. Then plant in there thin. In a year or two, come along and plant the center.

Q.—Do you know the general direction of the winds out at the Golden Gate Park?

A.—I have an idea of the winds; yes, sir.

Q.—From the westward?

A.—About the same as here.

Q.—From the westward?

A.—Yes, sir.

Q.—Well, then, if you had charge of that Golden Gate Park, planting trees, etc., which would you deem to be the best economy—planting these thick plantations, that were spoken of; then at the expiration of two or three years, thinning out; or planting a thick, protecting belt to the windward, and then planting thickly to the leeward of that?

A.—Well, I would do everything—I would plant thickly for protection, and I would plant some hedges; some I would plant thin. For instance, to get a forest in a rural way, you have got to do it in that way. When you take a rural way of it—some thick, some thin, and so on—it don't do to plant it all one way.

Q.—Where you plant thick, you would not attempt to cut out afterwards?

A.—In some instances I would thin out.

Q.—In some instances you would not?

A.—No, sir. I would have a wide space. I would have four or five, or ten or a dozen together—have them in groups.

Q.—They could be planted in that way in the first instance, couldn't they, when you had this protecting belt to the westward?

A.—Yes, sir.

Q.—I thought so. From your experience, do you deem it necessary to cut stakes down?

A.—I do, sir.

Q.—Why?

A.—In some instances it is better. If you have a stake near a tree, it will be better to cut it off and point it again; better economy to cut them off. Sometimes I break them off, and away they go; that is the cheapest.

Q.—Can a pine tree, two years old, be taken up and transplanted?

A.—Yes, sir.

Q.—Which is the cheaper—to destroy that tree by cutting it down and using it to make brush fences, and then substituting young pines?

A.—Well, I believe the young pine is the cheapest in this way.

Q.—Well, substituting them, or taking them up and transplanting them—which is the cheapest?

A.—Well, the cheapest is to plant the young tree. If you plant an old tree for a pine, you have nothing but an old common shrub. It is always unsightly. To remove old pines and cypress, in this country, isn't a good thing. They don't fiber on top, and if the ground is sandy it is a great trouble.

Q.—Where it has been in prepared ground?

A.—If the ground is loam, or the ball will adhere to the roots, it will do; but if not, it is cheaper to cut it down and plant new ones.

Q.—Is it wise to cut down the tree you have raised for two or three years, and spent a great deal of time, and care, and attention on?

A.—The question of view must be taken into consideration.

Q.—Leaving aside the question of view?

A.—Then I would not cut it down at all.

ANDREW J. MOULDER, called for Mr. Hall, sworn and examined.

Mr. Hall—Were you Secretary of the Park Commissioners?

Answer—I was, sir.

Q.—In the year when the Board first started?

A.—I was, sir.

Q.—As such, were you cognizant of the topographical survey of the park being made?

A.—I was, sir.

Q.—Were there specifications drawn of that survey?

A.—There were.

Q.—Who drew those specifications?

A.—They were drawn in the first place, as I understand it, by Mr. Hall.

Mr. Carson—What Mr. Hall?

A.—Mr. Hall who is present. Amended afterwards by Colonel Connolly, one of the Commissioners, who was himself a surveyor.

Mr. Hall—Would you know those specifications if you were to see them, sir?

A.—I would, sir.

Q. [Paper shown to witness]—Examine that paper.

A.—That indorsement is in my handwriting: "Specifications for survey of park, prepared by William Hammond Hall, Civil Engineer."

Q.—Examine the specifications, if you please, sir, and see if you can identify them.

A.—I recognize my handwriting in several of the specifications; for instance, in purple ink, the body of the amendment is in the handwriting of one David Connolly, one of the Commissioners. Memorandum A is in my handwriting.

Mr. Carson—In other words, these are the specifications.

A.—These are the specifications; yes, sir.

Mr. Carson—That is sufficient identification.

Mr. Broderick—I understand you to say that that was Mr. Connolly's and this yours? [Showing.]

A.—That in purple ink is mine; in black ink Mr. Connolly's.

Mr. Hall—These erasures through the specifications were all there?

A.—Yes; to the best of my knowledge and belief.

Q.—What was the object of amending those specifications?

A.—The object was to reduce the amount of work called for by the specifications originally, and thereby economize in the price of the survey.

Q. [Showing minutes]—There is an entry in the minutes in regard to these specifications; please read it.

A.—"July twenty-sixth, eighteen hundred and seventy, the specifications for the survey, etc., of the park, prepared by William Hammond Hall, were amended by the Commissioners, and then adopted as the basis of a contract to be made for a survey. On motion of Mr. Connolly, the Secretary was instructed to address communications to Mr. William H. Hall, Robert Morris, Alfred Portt, and F. Delancy, notifying them to state for what sum, in gross, they will make the survey, prepare the maps, etc., called for by and in strict conformity with said specifications; and on motion, the Board adjourned."

Q.—Was there such an invitation to bid issued?

A.—Yes, sir.

Q.—And were bids received on these specifications?

A.—They were, sir.

Q.—To whom was the contract awarded?

A.—Will you be kind enough to refer to that date again? July twenty-sixth, the contract was awarded to William Hammond Hall as the lowest bidder.

Mr. Hall says he wishes to call the attention of the committee to the part of the specifications of the survey referring to the granite monuments.

Mr. Carson—You can submit that much of the specifications so that it will be down in the reporter's notes.

Mr. Broderick reads from the specifications as follows: "And all angular points of said boundaries to be marked as provided in specification No. —." I suppose that means No. 5.

Mr. Hall—Yes, it does.

Mr. Broderick [continuing]: "Specification No. 5. Granite monuments, to be thirty inches long, six inches square, and squared and smoothed at one end; top between to be marked in such finished and in legible and durable chiseling, in center a cross, above the numbers or characters, indication of station to be represented below the figures indicating the height of its surface when set; between, to the nearest one-hundredth part of a foot above the datum plane. They shall be set twenty-four inches of their length in the ground, and solidly imbedded in firm earth (even if it be necessary to bring the soil from some distance to accomplish this end), in such position that the center of the cross marks the position of the angular point or station, and knowing the surface of the monument to be at the height expressed by the reference on its face."

Mr. Hall—I wish to point out here the shape of the park and the shape of the angular points. [Produces a map and points thereon.] There is an angular point on the avenue at the intersection of Baker street with Fell, and one at the intersection of Baker street with Oak.

Mr. Broderick—What is the reason of the changing of those names.

Mr. Hall—The lithographer made a mistake. That map was lithographed two years ago. There is another angular point at the intersection of Stanyan street with Oak, and another angular point at the intersection of Fell street with Stanyan; another angular point at the intersection of Stanyan street with the line of the park; another angular point at the intersection of Fulton and D streets; then there is another angular point at the intersection of the north line of the park with the great highway; and one angular point at the intersection of the south line of the park with the great highway. Those are all the angular points. Then the specifications call for a granite monument at another point—these, you will find, sir, to be placed on top of Strawberry Hill.

Mr. Carson—About on a line with Sixteenth Avenue?

Mr. Hall—About on a line with Seventeenth Avenue. Those are the ten points called for in the specifications.

Mr. Carson—Gentlemen of the committee, I desire to read from the report of Mr. Hall, to the Commissioners, dated December thirtieth, eighteen hundred and seventy-one. I read from page thirteen, first biennial report: "The most important points were to be marked by granite monuments, twenty-seven in number; secondary points by substantial posts, one hundred and fifty in number; while many thousand small stakes were to be driven. The dimensions of the monuments and posts were fixed and the manner of placing them defined, and there were, also, many other provisions designed to secure the execution of the work in a complete and substantial manner, a detailed description of the maps being made from this survey, was entered into and other specific instructions given. As before stated, the field work was immediately commenced and pressed forward to completion in November, eighteen hundred and seventy. On the tenth day of February, eighteen hundred and seventy-one, the maps were

finished, and you approved and accepted them with the work in the field."

WM. H. HALL, recalled in his own behalf, testified as follows:

I undertook this survey under these specifications as they are here, and as they have been identified, and put in twenty-seven granite monuments of my own motion, under a specification which called for ten.

Mr. Carson—Let me interrupt you then one moment. Mr. Broderick said the number was left blank here in the specifications.

Answer—The number is not specified, but it says the angular points—and they are nine in number—and the other granite monument, which it says afterward is to be placed on Strawberry Hill, makes ten. I put in twenty-seven granite monuments under that specification; in other words, seventeen more than I was ever paid for. I did that because they cost me but little, and because I expected to be Engineer of the park, and I knew that a greater number would be of greater advantage to me in surveying. Afterwards, when the avenue was being graded, and four of these monuments or six of them were being covered up, and no longer of any use there, I had either four or six taken away.

Q.—You refer to those that were taken to San Rafael on that job of yours at Mr. Coleman's?

A.—Yes, sir; either four or six, I can't tell which. I considered them my own. I consider that there are either eleven or thirteen granite monuments there on the park now, that I have never been paid for, and I don't expect any pay for them?

Q.—You claim—

A.—I claim that I have put in more granite monuments there, than the specification calls for, and afterwards in making my report to the Park Commissioners, which you find there, a yearly report, I mentioned having put in twenty-seven granite monuments, and it is mentioned in the style as though the specifications called for it; but they do not.

Q.—You claim, I suppose, also that you are entitled to go there now and remove all the other granite monuments over the number of ten if you so see fit.

A.—No, sir; I would not, they have been there a long while, and furthermore they are of some benefit, those that are there now.

Q.—You remember your report here says—I quote from the report now, on page thirteen of your first biennial report to the Commissioners—that "on the tenth day of February, eighteen hundred and seventy-one, the maps were finished, and you approved and accepted them, with the work in the field?"

A.—Yes, sir.

Q.—Now, sir; don't you consider that, as a portion of the work in the field, those monuments were also accepted by the Commissioners?

A.—Yes; right here I will state that under the same circumstances, in the same case, I should remove those six granite monuments again.

Q.—Now you have the right to remove the rest of the ten?

A.—A perfect right, sir.

Q.—After turning them over to the Commissioners, who accepted them as a portion of the work?

A.—They were my granite monuments, and I took them away. I

would like to state right here that those monuments cost me one dollar and seventy-five cents each; that is what I paid for them.

Mr. Byoderick—You gave them to the Commissioners for nothing, did you?

A.—I never charged them any money for the extra ones I put there.

Q.—You turned over twenty-seven monuments in the report, and didn't charge the Commissioners anything for them?

A.—No, sir; I didn't.

THOMAS SPOONER, called by the committee, sworn and examined.

Mr. Carson—What is your business?

Answer—I am in the seed and tree business.

Q.—Where?

A.—Four hundred and twenty-six Sansome street.

Q.—In this city?

A.—Yes, sir.

Q.—Have you been supplying the park with anything in your line of business?

A.—I have for the last three years.

Q.—Do you remember a sale of a lot of ten thousand gum trees?

A.—I do, sir.

Q.—To the Park Commissioners recently?

A.—Yes, sir.

Q.—What rate did you sell them at?

A.—Forty dollars a thousand.

Q.—What was the market value of gum trees of that character at that time?

A.—Well, the market value of them was—they were worth forty-five dollars.

Q.—Why did you sell them for forty dollars, if that was the market value?

A.—The reason is I wanted to make the sale.

Q.—Do you know of gum trees being sold in the market at that time for fifteen to seventeen dollars and a half a thousand?

A.—Yes, sir; I could sell you at that time for twelve dollars?

Q.—Sir?

A.—I could sell you at that time for twelve dollars, for ten dollars, but not that variety—not that kind.

Q.—Just be kind enough to specify to the reporter the different kinds of gum trees in the San Francisco market.

A.—Seedlings—and there is transplanted, and there is blocked, and there is three different varieties of them.

Q.—How old are the transplanted?

A.—They are about a year old; maybe eleven months old.

Q.—What do you mean by blocked?

A.—Well; put up in blocks—cut up in blocks—so you can take them out in one square block. You can knock the side out. They have to be transplanted and blocked off.

Q.—What are the differences in value of the three kinds you have just mentioned?

A.—Well, I have got some to-day I will sell you for ten dollars, some for forty, and some I would sell for sixty.

Q.—Which kind for ten?

A.—I will sell you seedlings.

Q.—Which for forty?

A.—I would sell you them that are not transplanted at all. I would sell you them that are in blocks for fifty dollars—any price we could get for them.

Q.—How was it at that time? Did you sell for any price you could get then?

A.—I do to-day, sir.

Q.—Did you at that time?

A.—I did.

Q.—Of what particular variety were these ten thousand that you sold at that time?

A.—Blocked gums.

Q.—That is the kind you claim sixty dollars for?

A.—That is, transplanted gums I claimed would be worth fifty dollars when I sold them.

Q.—Don't you know that gums of the same variety, the same age that you sold to the park at that time, for forty dollars a thousand, and they were advertised in the newspapers for seventeen dollars and a half a thousand?

A.—Well, I will pay seventeen dollars a thousand for fifty thousand; cash to-day for one hundred thousand.

Q.—I would like an answer to my question. [The question is read by the reporter.]

A.—No, sir; I don't. That is what I would like to know.

CROSS-EXAMINATION.

Mr. Hall—Did you pay me any commission for purchasing those trees?

Answer—Not a red cent; and I don't calculate to pay you any, nor I never would, nor any other man.

Q.—Did you ever pay me anything?

A.—Nary a cent, and don't calculate to pay anything, either. I don't believe in paying anybody any commissions—not those prices.

GEORGE F. ALLARDT, called for Mr. Hall, sworn and examined.

Mr. Hall—What is your profession?

Answer—Civil engineer and surveyor.

Q.—What experience have you had, sir, as civil engineer or surveyor, and how long have you been practicing the profession?

A.—I have had some twenty years experience in the profession, in pretty near all its branches and varieties.

Q.—Have you ever laid out roads, and attended to the construction of drives?

A.—I have laid out roads.

Q.—Have you visited the Golden Gate Park, lately?

A.—I was there about a month ago—several weeks ago.

Q.—At whose request?

A.—At your request—Mr. Hall's request.

Q.—Did you examine certain points of construction in those roads, upon which your professional opinion would be asked before this committee?

A.—Mr. Hall pointed me out a number of roads, and other matters, and I took a look at them, and examined them at the time.

Q.—Did you examine a point where there was a large cut on the

southern drive, about opposite Second Avenue? [Showing upon the map.]

A.—I was there and looked at it. I recognize upon the map the point.

Q.—In the construction of that drive, was it advisable to make that cut?

A.—I examined it by the eye, and not instrumental; but I judged at the time, that for a fine, wide drive, it was desirable to make the cut in order to avoid a very sharp curve.

Q.—Could a curve have been made around the point of that hill there [showing], to have been in keeping with the rest of the curves in the roads of the park, so far as you are able to judge?

A.—A curve could have been made around that point, but I think it would have been to the detriment of the drive as a fine drive, and as a direct drive; and, so far as I could judge, it might have been fully as expensive, because there would have been some filling to be done on account of its being side-hill; that I could not judge as to the amount.

Q.—Was not all the material that came out of that cut required in making the fills at either side?

A.—I judge it was, from the fact that I didn't see any waste banks.

Q.—Was there not still a place on the western side there, where more material still is required in filling up the hollow?

A.—There is a depression on the west side of the road—

Mr. Carson—It must be the north side of the road.

[*Mr. Hall* shows the location on the map.]

The Witness—There is a depression on the west side of the cut and north side of the road, which is considerably lower—several feet lower—than the grade of the road itself.

Mr. Hall—Don't you consider there would be more material still required in filling that depression. What did you consider in that regard?

A.—It seemed to me, that if that place was not filled up it would become a pond-hole in the winter time; therefore material would have to be brought from some point to fill it up.

Q.—Do you, or do you not consider that money has been expended there in the construction of that drive unnecessarily?

A.—Which part of the drive do you refer to?

Q.—Take that point there, making that cut through there, and the construction of the drive in the immediate vicinity. Has there been any unnecessary expenditure of money there, in your opinion as an engineer?

A.—That would be a question of instrumental examination, and making figures as to quantity, but judging by the eye, I should say this: that if there was any unnecessary expenditure of money at that point it would be very slight, perhaps not any. It is not apparent—at least it is not apparent to an engineer—that there has been any unnecessary expenditure of money there.

Q.—Did you examine a large cutting, marked on this map here with the word "tunnel," cutting through rock on the northern drive about opposite the crossing of Nineteenth Avenue. This road comes up about like that [marking with pencil].

A.—What is the question, sir?

Q.—Did you examine a certain cutting—or cuttings made on the

line of the northern drive, about opposite the crossing of Nineteenth Avenue?

A.—I did.

Q.—Do you consider the main drive at that point well located? or in that vicinity?

A.—Does this that is marked "tunnel" represent the main drive?

Q.—Yes; that is where the cut is down there. That is to be the main drive?

A.—That is a question of grade. If it is desirable to have a moderate grade on the main drive—which, I think, is desirable—then a cut is necessary at that place, being, as I remember, I think it was the lowest place in that vicinity to get over the hill.

Q.—Now, what were the advantages—taking into consideration that rock was required for macadamizing this road, and any engineering points that you can think of—what were the advantages of locating that road down in that hollow—making that cut—or were there any advantages, and what were they?

A.—As material was required in other parts of the road it would be taken from some point, and if you could take it from the road itself there would be an economy in it of course. You would be making the cut, and at the same time making your road. You might have taken the materials from some other point—from a burrowing pit; but that would have cost more, and it would have been waste labor of course. In building roads we want to avoid burrowing pits and waste banks as much as possible, because that is double labor. We want to equalize the cuttings and fillings as much as possible—that is the rule.

Q.—Could this ridge have been passed in the construction of that drive in that vicinity upon equally gentle curvature, and easy gradient, without making such a cut?

A.—I am pretty well satisfied it could not, from my inspection—not within the park—not within the lines of the park.

Q.—If you were laying out that road, would you have located it as it is, so far as you were able to judge of it?

A.—I only say that at the time I made as close examination of it as practicable, and I thought the location was a very proper one, particularly, if desirable to have an easy grade, and desirable to get material, which seemed to be the case.

Q.—There being quite a length of roadway, five or six miles, which had to be constructed in the park at the western end of it, upon which material, such as remains in this cut, would be required, may not the cut be finished by using the material that is there still on the remainder of these drives, when they are built?

A.—A great deal of the material now there that is in the cut will be required for that purpose; I don't know how much, but whatever is taken out of the cut will be an advantage—it will be killing two birds with one stone, so to say; you are making a road; you are cutting a road through that hill, and surfacing the road where it is required with that same material; that seems to be economy.

Q.—Now, did you observe any waste bank in that neighborhood?

A.—I saw no waste banks anywhere in that neighborhood.

Q.—The material which has been taken out of that cut, then, having been used in the surfacing of the roadway already constructed, and the material which still remains in the cut being used in the future for surfacing other roads, which are to be built when the cut-

ting is completed in this manner, will it have cost anything as a cut, or will it have been simply a cut made in using it as a quarry, to obtain the material required?

A.—That will be the case, provided on other parts of the road there are no nearer points where the rock can be obtained.

Q.—Did you observe any other points, out to the west there, where the rock could be obtained?

A.—I did not; I couldn't find any; I didn't see any.

Mr. Broderick—Did you notice any right above it?

A.—There is an excavation, right above the road that we drive over, which seems to be the material for surfacing the road—the red rock, for putting on the last coating on the road.

Q.—Then, in your opinion, has there been any unnecessary expenditure of money at this point by reason of this cutting?

A.—I certainly don't see any evidence of it.

Q.—Did you examine the locality for a certain drain, marked on this map, from the engine-house valley to the middle lake?

A.—I saw the place where the drain was pointed out to be. The drain was under the ground. I didn't see the drain.

Q.—Well, would you consider that drain was necessary in that valley?

A.—In rain-storms it seemed to me that a good deal of water would accumulate there, and must be taken to the lowest point by means of a drain, as it would run over the surface of the road in storms—over the macadamized road.

Q.—Would it not be necessary to drain or provide for the letting off of the surface water pretty much over all of the finished portion of that park, or if it is intended to be a finished park?

A.—To make it a fine park it certainly is necessary to provide for drainage, else it becomes a swamp in bad weather.

Q.—In laying water-pipe through wet grounds, how would you lay it? in what localities would you lay it? where would you lay it?

A.—I would lay it in the lowest ground, in order that the water may drain into it.

Q.—We are speaking of water-pipes now—water-supply or distribution-pipe.

A.—Oh! I understood sewer-pipe—drainage-pipe.

Q.—Well, this other before, was a drainage-pipe. Now, this is another subject altogether.

A.—Then I didn't understand you.

Q.—Where would you lay those water-pipes in the ground—that kind?

A.—For what purpose—what use?

A.—For the purpose of irrigating the grounds, the roads, and the walks?

A.—I don't know. I should lay them at the points where the water was needed. I don't know where that is—where it is most needed.

Q.—How would you locate water pipes in that park to irrigate it?

A.—I am unable to answer that question without having made surveys. It is rather an intricate subject in this case.

CROSS-EXAMINATION.

Mr. Carson—Did you know this locality before any improvement was made upon it?

Answer—Any particular locality, sir?

Q.—These localities you have mentioned—this point, or this at the tunnel? [Showing.]

A.—No, sir; I did not.

Q.—To turn a moment to this cut here that you spoke about a moment or two ago—could not that cut have been avoided by a deflection of the road to the right, and make a great saving of money?

A.—I should judge not, from the fact that the material seemed to be required for those parts of the road, and would have to be obtained from some source. That was my impression when I examined the ground.

Q.—If you understood that this hill was needed to protect the nursery from the prevailing westerly winds, and that nursery being a very important element in this park management, would you have cut away the higher portion of this hill and sacrificed, or permitted your nursery to be sacrificed, by those winds?

A.—If the nursery was an important matter to be protected, I should have gone to considerable expense in avoiding that cut, of course.

Q.—And if by this deflection to the right, with a small amount of filling, the material for which you could have got in a number of places in the neighborhood, you could have produced just as good a road on as easy a grade, would you have cut away this hill?

A.—That would depend on how straight a road I wanted to build. You could not build a straight road by making that deflection. You could have made a very sharp curve. I don't know how objectionable that would be in this case. I am not able to judge.

Q.—I believe the general understanding is that this park is not for business but for pleasure. Its roads are not for purely commercial purposes, but for enjoyment and for the amusement of the people, and for the health of the people; therefore, direct roads are not so much of an advantage as beauty, and possibly, economy, at the present time. Understanding that point, therefore, and that a direct road is not an absolute necessity, would you still use it to make this deflection to the right, taking all those circumstances into account?

A.—In making a location of that kind, I would be guided by the general curvature of those parts of the road. I would not like to make a very abrupt curve in the main road of this kind, where the curves generally are very easy. I think I should have objections to making a curve around there, if I had been the engineer of that road, unless there were very serious reasons to the contrary.

Q.—You take into account, I presume, in this conclusion of yours, the point I suggest with reference to protecting the nursery.

A.—I could not say what weight that would have.

Q.—You are not a landscape gardener, are you, Mr. Allardt?

A.—I am not.

Q.—If there were other places in the vicinity where cuts were necessary, and where this material could have been obtained with almost the same ease—the material for this filling beyond here, that was spoken of—would you still insist on cutting away this hill?

A.—I think I should favor it. As I understand it, this main drive is intended to accommodate a great deal of travel; a great deal of driving—and pretty fast driving—as I understand it.

Q.—No; it is limited to ten miles an hour.

A.—Well, ten miles an hour, that is tolerably fast, and it does

strike me that it would be rather an objectionable feature of the park to make such an abrupt curve there.

Q.—Do you know that there was an abrupt curve necessary there at all? We are talking about an abrupt curve as though it was an absolute, positive necessity.

A.—I got out of the buggy and walked around the hill and examined it with my eye, and it seems to me that quite an abrupt curve would have been necessary at the beginning, say at the letter R in the drive.

Q.—Between First and Second Avenues?

A.—Between First and Second Avenues. I think if it began at that letter, there still would have to be some filling before it came to here—the low ground there.

Q.—Do you know there is a quarry to the south of this tunnel?

A.—Yes, sir.

Q.—From which you say surfacing material could be obtained?

A.—Yes, sir; red rock.

Q.—If sufficient material could be obtained from this quarry—and all this quarry hill must be cut away sooner or later, to do all the necessary surfacing—was it necessary to make this deep cut through here [showing on the map], simply for the purpose of obtaining rock?

A.—In that case, it would not be necessary to make the cut for the purpose of obtaining rock.

Q.—Did you examine the locality to the westward of where this tunnel is?

A.—I did; I drove over it.

Q.—Could not a road have been made up, upon a moderately easy grade, and so have avoided the necessity of this large open cut?

A.—The road would have been very much steeper than the elbow through that cut—very considerably steeper. I could not say how much. I think that cut is fifty or sixty feet; perhaps it is even fifty or sixty feet in the elevation; I am just guessing.

Q.—When you say direct roads are not very desirable, or entirely desirable, in going through this park, could not a road have been made winding around these hills, so as to have avoided that very grade you have spoken about, and so have avoided making this unsightly cut?

A.—Judging by the topography, a road with an equally easy grade could have been made without making this cut, and it would have been a very long road on the side hills, and I don't know but a great deal of material would have been required, and a great deal of cutting. Perhaps as much cutting as it would through the cut. That I can't tell without figuring. But the road would have to run on the side hills, and in order to climb up, would have to be—to give the same grade—you would have to gain distance, as the engineers say.

Q.—What is the depth of that cut at the western side, at the point where it has stopped now, coming from the west?

A.—I can only state from memory; about sixty feet, perhaps. It might have been forty feet. I am not positive about that.

Q.—Mr. Hall has said that he desired the material that would come out of this cut to make roads. Therefore the cut here and the fill or road building elsewhere would equalize each other, and so this would be utterly inexpensive. Now, if there were other places in the vicinity, where there was material—rock and earth which

must be removed sooner or later—would it be the more economical or advisable to have used those places instead of making this sixty-foot cut through here?

A.—I should say not, since you could have a cut with the same depth of face. It is cheaper to remove the material from a quarry. The larger the cut the cheaper it is to remove the material. That is a well-known fact of engineering or contracting. You might say you can put in a large blast, and remove a great deal of material at once, or you can undermine it with a large cut; that you can't do in small shallow cuttings.

Q.—But where these other cuttings were necessary, absolutely necessary to be made, would it have been more advisable to have used the material coming from those places than making this.

A.—It is difficult for me even to answer that question, because the engineer has studied this much more thoroughly than I have, and he has a general plan to carry out, and it would be hardly fair for me to criticise any one feature of the plan without understanding all the rest of the features. I can only speak directly about the cut.

Mr. Broderick—You were asked here by Mr. Hall whether it was possible to get a grade.

A.—I suppose you mean passing those hills, whether it was possible to construct a road of equally easy grade any where in there. [Showing on the map.]

Q.—That is, you mean by that, a grade equally as easy as the cut would be?

Mr. Hall—Equally as easy as the grade through the cut?

A.—I answered the question to Mr. Carson. Mr. Carson asked a similar question. I said probably a road of equally easy grade could be made by filling the side of the hill for a long distance, but the road would be very much longer.

Q.—What I want to ask you is whether a road could not be made from this point, where the road takes a turn like that [showing]—whether a road could not be taken from that point outside of that hill, on a moderately easy grade, down where the road is here?

A.—I should say not.

Q.—You went on to the top of the hill when you made the examination here?

A.—No, sir; we didn't. We could see the hill in driving. We could see it from all sides.

Q.—Could you judge better by being on the top of hill?

A.—No; I think we could judge better by being a little distance away, and looking at it.

Q.—Did you go to the top of the hill at all?

A.—No, sir; I did not.

Q. [Showing]—Could not this road have been run around this way, and make a nicer grade?

A.—The proper answer to that probably would be, that I could not answer definitely without an instrumental examination. It is very easy to be deceived—the eye. [Witness shows on the map.]

Q.—To hold you down to the exact grade of that, and then ask you whether you could not find a piece of ground where you could not increase the grade a little or depress it a little—whether you think there is a place there to build a road with moderate grade that would

have carried us around those hills and not necessitate the cutting through that one?

A.—That would be a matter of instrumental examination; no doubt that a slightly moderate grade could be made, but nothing like the grade that goes through the cut to the grade would be equal there. Every other grade would be very much in excess of that; very much steeper than that through the cut.

Mr. Carson—Won't the surface of that road always be damp from seepage?

A.—It won't if it is properly ditched on the sides. It must have a ditch on each side.

Q.—Won't it require a great deal more care than any plain surface road would require to keep in repair?

A.—That depends upon the surface that you strike, whether it is rock or clay. If it is properly ditched—if they are properly ditched there is no difficulty about keeping them dry.

Q.—You know the prevailing wind is there, Mr. Allardt, from the westward?

A.—Yes, sir; they are all from the west.

Q.—Would not that open cut, sixty feet deep, at some points, serve as a tunnel, and make it an extremely unpleasant place to drive through in the summer season?

A.—I should judge that the wind would be stronger there—that it would increase the strength of the wind. No question about that. I don't know whether the wind would be any more violent through the cut than it would be on top of the hill. I can't judge about that.

Mr. Broderick—State as to whether the sides of the cut will stand well?

A.—There is a large portion of the cut that is solid rock, and will stand. There may be some loose soil or ground which would require a flatter slope.

Q.—Is not the stratification of all that rock quite distinct and free?

A.—I am unable to state from memory anything about the stratification. It seems to be a conglomerate rock.

Q.—There is nothing adhesive about it at all?

A.—I saw it stood there at a very steep slope on that perpendicular; so there must be adhesiveness to it.

Q.—It might wash out in one or two seasons' rain, might it not—the clay between the formations?

A.—Not if it is properly ditched on the upper side, so as to keep the water from running down. The rain alone would not do it; if the water was allowed to run down the cut in streams it might injure it. There would have to be ditches on the upper side of the cut to keep the washings off the cut.

Q.—And the upper surface would have to be properly sloped off, and faced, and so forth?

A.—That is, if it was loose material, it would have to be.

Q.—You don't speak from particular examination?

A.—No, sir; I could not give a very definite opinion on the valuation of the material there.

Mr. Hall—In locating that road approaching the cut from each side, have I been able to put the location of the road in much lower and more protected ground, by reason of making this cut, than I would had I carried the road around over the hill?

A.—Protected from what?

Q.—Protected from the winds?

A.—The location, I see, of the cut seems to be a good one; seems to be protected from the winds.

Mr. Carson—By the natural hills that were there, to the west of it?

A.—By the hills; yes, sir; it makes a bend from the cut. The location on the west, of course, is exposed to the wind in any part of it. I could find no fault with the location from my inspection—that is to say, to the end of that cut. I think the road was well located to enter the cut and leave it—a good location.

Mr. Hall—Is not the road more protected from the wind now—supposing the cut was finished—the road approaching the cut on each side being located in a valley, than it would be if it had been carried over the hill?

A.—That can not be definitely answered, because we find in this country that sometimes there are greater winds in the valleys than there are on the tops of the hills. That depends on the topography of the country, and must be ascertained by observation, I should judge.

Mr. Carson—Your examination was a very cursory one, I presume?

A.—It was a matter of two or three hours.

Q.—Through the entire park?

A.—Yes, sir; I guess about four hours.

Q.—When did you make it, sir?

A.—I think it was about a month ago.

Q.—For Mr. Hall?

A.—With Mr. Hall; yes, sir.

Q.—At his request?

A.—At his request.

JOHN ELLIS, called for Mr. Hall, sworn and examined.

Mr. Hall—What is your profession?

Answer—I am a landscape gardener—horticulturist.

Q.—How long have you followed that profession?

A.—Well; I suppose, all my life.

Q.—About how many years since you commenced?

A.—About forty years.

Q.—What position do you now hold?

A.—I am, at the present time, at the University of California, as horticulturist there, laying out the grounds of that institution.

Q.—Have you made a special study of the subject of laying out the grounds, and improving them?

A.—I have, sir.

Q.—You have visited Golden Gate Park?

A.—I have.

Q.—How long since the last time?

A.—About four weeks ago, I think.

Q.—At whose request?

A.—At your request.

A.—Did you examine certain points there upon which your testimony might be required before this committee?

A.—I did.

Q.—Did you examine the largest cut made in the construction of the southern drive, about opposite the line of Second Avenue?

A.—I did.

Q.—Now, in the construction of that drive, was it advisable to make that cut?

A.—From what I saw of it there I should suppose it was. It seemed to me that the material was required for several things; the material for working the road was necessary to be obtained somewhere, and it looked to me as though that was the most convenient place to get it.

Q.—Could a road have been made around the point of that hill through which the cut is carried?

A.—Oh, decidedly.

Q.—Would it possess the same easy curvature that the road does now?

A.—I should say not; it would have been very objectionable. In my opinion such a thing as that wouldn't have done; I wouldn't have done it myself; short, abrupt curves, in a public park, where vehicles are running constantly, are very objectionable.

Q.—And on a main drive more particularly, I suppose?

A.—Yes, sir.

Q.—Now, sir, suppose there was a sheltered nook to the leeward of that hill, and by making that cut through the hill you partially destroy the shelter of this nook, was that sacrifice greater or less than the sacrifice of that easy curvature would have been in cutting away the point of the hill affecting the cut?

A.—I should say not.

Q.—Do you consider the road well located at that point?

A.—I do. I considered it at the time I examined it, and do yet.

Q.—Did you examine the large cutting on the northern drive, marked here by the word tunnel?

A.—Yes, sir; I recollect that perfectly well.

Q.—At the crossing of Nineteenth Avenue?

A.—I recollect that perfectly well.

Q.—Do you consider the road to have been well located at that point, or not?

A.—Well, I think it is.

Q.—What were the advantages from locating the road as it is located.

A.—Well, there are a number of advantages. There is the necessary grade—there is the material, and curvature, and many other questions in connection with it.

Q.—Suppose all the material taken out of that cutting was used in the construction of the roadway each side, east and west, used in macadamizing the roadway, then has the cut, as such, cost anything?

A.—I don't think it has.

Q.—From your inspection there could a road be by as equally easy grade and curvature have been constructed past that ridge without making such a cut?

A.—I think not, so far as my memory served me. That which is taken would of course fill the grades on both sides.

Q.—Then suppose that in place of other drives he constructed in the park, and in the neighborhood of that going to the westward of it, that to the remainder of the material in that cut would be taken out and used, would the cut, as such, cost anything upon its completion?

A.—I presume not. If I was at the park myself, I would of course make my calculation in reference to that; what material I wanted,

and, if got to be obtained somewhere, making that the most convenient place—I presume it is—that is all. The material can be had; I see no objection to it myself.

Q.—Do you consider, then, that there has been any considerable expenditure of money at that point?

A.—I do not.

Q.—Was your attention attracted to the location to a certain drain from the engine-house valley into the middle lake?

A.—Yes, sir.

Q.—Do you consider a drain, or such a drain, in that valley necessary?

A.—I presume it is, or else it would fill with water.

Q.—In locating water-pipes through a park, or on ground of that kind, about where would you locate them?

A.—Well, I would locate them in the most convenient places that I would want water.

Q.—Well, where would you be likely to require the water?

A.—Well, in this place probably there would be a great deal of water required for watering grass on each side of the road. I should locate my principal mains along the main roads.

Q.—Your principal water-pipes you mean?

A.—Principal water-pipes.

Q.—Along the main roads?

A.—Yes, sir; that I have always done myself. I did the same thing at the Capitol when I was there and laid those grounds out.

Q.—Did you lay those grounds out?

A.—I laid out the Capitol grounds; yes, sir.

The Chairman—In Sacramento?

A.—Yes, sir; and run the pipes through the walks there, and then branched the pipes from those main pipes.

Q.—What would you think of a plan of laying water-pipes through a park of this kind, in straight lines across the ground, running off-set to where the water would be required.

A.—Well, you may not want the water where those pipes are, they might be useless in a great measure.

Q.—Of your own knowledge of those grounds, the topography of the ground and the style of the improvement, do you think the system of laying those water-pipes in rectangular lines all over it could be adopted to any advantage?

A.—It would be to great disadvantage, because they would be in your way all the time.

CROSS-EXAMINATION.

The Chairman—Did you know the ground at all before any improvements were made on it?

Answer—No, sir; the first time I saw the ground was about two years ago.

Q.—Did you ever make any examination of it besides this one you speak about?

A.—Yes, sir; it has been some time there—two years ago I was over it.

Q.—Did you make an examination of it then?

A.—Yes, sir.

Q.—Mr. Hall was with you when you made this examination this recent one?

A.—Yes, sir; this time.

Q.—You are a landscape gardener, I believe?

A.—I am, sir.

Q.—Is it or not true that direct roads, straight roads, are specially desirable in parks?

A.—They are not picturesque—they are not beautiful.

Q.—Straight roads do not add to the general appearance?

A.—We avoid straight roads as much as possible.

Q.—Therefore a curve or deviation to the right here wouldn't have been an injury to the park?

A.—Short curves are objectionable, and very objectionable, and specially in places of this description where I speak—curves in a park being of some advantage—of course I have reference to long curves, not sharp curves.

Q.—Well, suppose a long curve could have been made here—you mark the distance between the northern and southern drives. Suppose a long curve could have been established here [showing], and as easy a grade preserved, would it not have been better to have saved that hill for the protection of the nursery?

A.—I think not; I will tell you why. Here is a lawn here, and it would have broken very much into this lawn. Now, I presume the intention of Mr. Hall was to avoid that. There are many things in landscape gardening that we may question, but it is impossible to tell that what is in the brain of the individual; there is an ideal picture always imagined in the brain of the landscape gardener, which ideality has to be carried out practically afterwards.

Q.—Let me interrupt you here, to say that Mr. Hall is not a landscape gardener, and Mr. Hall designed this road.

A.—Well, the roads seemed to me as though they were designed by a landscape gardener, or by somebody that knew a great deal about it—that is my opinion about it.

Q.—Well, go on, sir? If the material for any filling that was required beyond here could be obtained in the immediate neighborhood just as cheaply as it was obtained from this hill that was cut away, would you still have sacrificed the protection that was afforded by this hill, and destroyed it?

A.—The protection of what?

Q.—For the nursery, here?

A.—For the nursery?

Q.—Yes, sir; protecting it from the prevailing western winds?

A.—The object of a nursery is not a permanent thing, and I presume, in time, this nursery would be thrown into something else, and as the work progresses in that part, that nursery department would move away with it. I should not look at that nursery as a permanent feature, by any means. This nursery, certainly, will move away. It would not be policy to retain a nursery here, and you have got all your planting to do a mile away from there. It would not be policy to do it.

Q.—This road might have been changed—might have been deflected over to the south of First Avenue, and thus have avoided any chance of an abrupt curve, might it not?

A.—It is a very easy matter to see after a thing is done it might have been done some other way, but to see it when it is in its first

original condition, and take every perfection in your own brain and work it out practically, is quite another thing. I have made alterations scores of times myself, and I have been at this business the whole of my life. I have been at it for over twenty years in the State of New York before I came to California, and I must say that I do not think there was a place in my life that they laid out but what I made an alteration in it afterwards. It is like a man building a house. He might build a house just as perfect, according to his idea, as he thinks possible, but after it is finished he can see some places where he can alter it.

Q.—Well, sir; when you make a heavy cutting of hill you cannot replace it very handily, can you?

A.—Well, it depends on what Mr. Hall's object was in making this cut. Now, in cutting this immense piece of rock, which I thought when I was looking looked thirty feet deep—

Q.—Which one do you refer to—at the tunnel?

A.—Yes, sir. One thing good is, there is a feature there in cutting there, that will add such a feature to the park as is not in the park at all, and cannot be got anywhere else—that is, in the introduction of rock work; and I presume that if Mr. Hall were left to his own way that feature would be carried out very prettily there. I see a very excellent opportunity, too—and probably nowhere else in the park.

Q.—Well, am I right or not when I say what a landscape gardener informed us while testifying, that the object of landscape gardening was to imitate nature as closely as possible?

A.—Well, some landscape gardeners make that assertion, but I think they all differ from that in all my operations. If we are to imitate nature entirely, then leave things alone as they are; we don't want to put our hand to it. But the object of landscape gardening is to beautify nature on general principle.

WILLIAM WEBSTER, called on behalf of Mr. Hall, sworn and examined.

Mr. Hall—What is your profession?

Answer—A civil engineer and landscape gardener.

Q.—How long have you been engaged in this?

A.—Nearly forty years.

Q.—Where have you had experience in this business?

A.—In England, Canada, New York, and other States.

Q.—In California?

A.—Some in California; not very extensively here.

Q.—Have you made the special study of laying out grounds and locating roads?

A.—I have, sir.

Q.—Have you ever visited the Golden Gate Park?

A.—I have, sir.

Q.—When?

A.—Well, to the best of my recollection, it must have been four or five weeks ago—perhaps longer ago. You recollect me calling on you and presenting my card, some time ago, and you invited me out there to visit the park?

Q.—Yes, sir.

A.—I did, sir.

Q.—At whose request then, at my request?

A.—No; I considered it an invitation to visit the park.

Q.—While there was your attention attracted to the cutting made in the extension of the southern drive, about opposite Second Avenue?

A.—Well, I can hardly say that it was. I took a general survey of the portion which I visited. I didn't go all over the grounds. [The witness shows on the map.] I think I went as far as that [showing], along so far as these and here. [Showing.] I went here. [Showing.] I visited the nursery there.

Q.—Was your attention attracted to a certain cutting on this land?

A.—Not particularly; there is a deep cut.

Q.—Yes; there is a deep cut through the point of this hill.

A.—My attention was not attracted particularly to that—not to that particular point—I can't say it was.

Q.—Was your attention attracted to a certain cutting on the northern drive, opposite Nineteenth street—a heavy cutting on the rock?

A.—Over there [showing]. Well, I was not there at all, I only came as far as that [showing], to the best of my recollection—this is where it is a cross-cut in that direction.

Q.—Yes, sir.

A.—Well, that is the point.

Q.—I made a mistake in this. I thought Mr. Webster was one of the gentlemen I carried out there, but he was not; I remember now?

A.—No, sir.

Q.—When you have water-pipe on ground of this kind, about in what position would you place it?

A.—I should place the pipes just wherever I would need them.

Q.—Where would you be apt to need the water in such ground?

A.—Wherever there was any grass or flowers, or anything that needed irrigation.

Q.—Where would it be that irrigation would be needed?

A.—On the line along on this road. The road, of course, needs watering. All roads need watering and rolling—all park roads, to keep the dust down.

Q.—And walks?

A.—And walks; and wherever there are any trees to irrigate. Wherever it is needed at all, my custom has always been to run the pipe along around the edge of the road and of my drains wherever needed.

Q.—Is that the general custom?

A.—That is the general custom; yes.

Q.—Is drainage—or are drains required all over a ground of this kind, to carry off the surface water that falls on the ground and walks?

A.—Certainly.

Q.—Then would you consider a drain in that location from a certain valley where that engine-house is, down to that lake—a drain there—would you consider it necessary?

A.—Is this low ground in over here? [Showing].

Q.—That is the valley.

A.—Certainly, I consider all low ground is benefited by draining; and my custom is in making roads, and particularly roads of any extent to put a drain in either side of the road and to have gratings and wells on the side of the road; that is, well-traps to catch the water—to catch the sediment.

Q.—Are not the main drains of a ground of this kind located in the axis of the main drainage areas?

A.—Why, certainly; wherever your lowest grounds are, there I should put my drains.

[Here the committee takes a recess until seven o'clock and thirty minutes P. M.]

EVENING SESSION.

Present: Messrs. Carson, Barber, Broderick, and Raisch.

JAMES S. HENDERSON, called for Mr. Hall, sworn and examined.

Mr. Hall—What is your profession?

Answer—A gardener.

Q.—How long have you been following that profession?

A.—About thirty-three years.

Q.—Where?

A.—Partly in Scotland and England, a short time in the Eastern States, and the rest in California.

Q.—What position do you occupy now?

A.—I am gardener.

Q.—For whom? For what purpose?

A.—J. C. Flood.

Q.—Where?

A.—Menlo Park?

The Chairman—Of the firm of Flood & O'Brien?

A.—Yes, sir.

Mr. Hall—Were you ever engaged at the Golden Gate Park?

A.—Yes, sir.

Q.—In what capacity?

A.—Head gardener.

Q.—What was the period you were engaged there, the date when you commenced, and when you left?

A.—From the first of May, eighteen hundred and seventy-two to the middle of April eighteen hundred and seventy-five, as near as I can remember.

Q.—Do you know anything of the planting of the trees there at the Golden Gate Park?

A.—Yes, sir; when I was there I superintended planting it all.

Q.—Do you remember the planting of trees on the sand district of the park?

A.—Yes, sir.

Q.—Particularly during the winter of eighteen hundred and seventy-four-five?

A.—Yes, sir.

Q.—Do you remember there being planted out a lot of gums, cypress, and so on, there?

A.—Yes, sir.

Q.—About how many trees were planted out?

A.—I planted out in the first planting fourteen thousand five hundred, and then I planted about three thousand afterwards; that would make seventeen thousand five hundred.

Q.—Altogether?

A.—Altogether, in eighteen hundred and seventy-four-five.

Q.—Have you examined the condition of those trees lately?

A.—I went over them all before I left in the middle of April, and then I have seen them since.

Q.—What is the condition of them?

A.—The condition of them when I left was very good, excepting a few on the ridges, where the sand-drifts were; some of them were covered up.

Q.—About what proportion of the gum trees that were planted there were living when you examined them?

A.—I went there and made an examination in the middle of April before I left.

Q.—In what year?

A.—Eighteen hundred and seventy-five—last summer—the middle of April, eighteen hundred and seventy-five; then I have been through a part of them since—not all.

Q.—How recently?

A.—About a month ago, or three weeks.

Mr. Hall—At whose request?

A.—At your request.

Q.—What condition did you find these trees in?

A.—So far as I went through them—on this last time—I found them in very good condition, especially the gums.

Q.—About what proportion of the gum trees are living and thriving?

A.—I should say that of those on the flat ground, where protected, from eighty-five to ninety per cent. as far as I went through—from eighty-five to ninety, I should say; that is, the gums. The other plants, of course, there is more of them dead.

Q.—And about what proportion of the gums where they were not so well protected?

A.—I didn't go through the ridges. I couldn't say at present. It was only where the sand-drifts had blown over; they were all looking very well.

Q.—Do you consider that plantation to be a success, or in a great measure successful?

A.—It is a great deal better than ever I expected.

Q.—Do you think those sands can be covered with trees planted out in the manner they were planted out?

A.—Yes, sir; I think so by planting them out small.

Q.—Would you plant them out very small?

A.—Yes, sir.

Q.—What is the advantage in planting out very small trees?

A.—The advantage would be there that they would plant out from seed, because the roots are not twisted; if they are planted larger, the roots would get twisted up, and the roots wouldn't take so good hold of the ground.

Q.—In planting a place of that kind it is usual to plant trees much closer together than they are ultimately intended to stand?

A.—Yes, sir.

Q.—Were these trees generally planted with a view to cutting out some of them?

A.—Yes, sir; they were not planted there so thick as I would have done in a place of my own; according to my ideas, I would have planted thicker still.

Q.—You consider then that the proper method of planting such a place is to plant much thicker than the trees are ultimately to stand?

A.—Yes, sir; I would plant thicker even than the trees are planted in the park.

Q.—For what reason?

A.—Because the one protects the other—thinning them out as they grow every year.

Q.—Do they make finer plants that way?

A.—Yes, sir; and they grow faster according to my experience.

Q.—Do you remember a plantation in this end of the park where the other kinds of trees are planted mostly?

A.—Pine?

The Chairman—You mean the eastern end?

Mr. Hall—The eastern end of the park. Yes, sir. Was the intention in planting out the clumps of trees there to plant much thicker than they were ultimately intended to be?

A.—Yes, sir; that was my intention when I planted them.

Q.—Is it about time now, or has it been about time during this last winter season, to commence thinning out these plantations?

A.—If I found them to be too thick I would commence thinning out as soon as I found them to be too thick.

Q.—Can you understand, then, how several hundred trees—even large, fine formed trees—might be cut out of the plantation of the park?

A.—Well, that would be owing to circumstances with a fine formed tree. I would always take out the poorest of them. Providing it was not standing in a situation I did not want.

Q.—Supposing there was a clump of trees, all of them nearly equally fine in form, that you considered too close together to fill up the clump. Would you hesitate about cutting out one of those trees, even if finely formed?

A.—I wouldn't hesitate about cutting out even the best formed tree in it, if I judged that the rest would have a better show for growth.

Q.—Do you remember the old nursery there—the old spruce nursery?

A.—Yes, sir.

Q.—What was the reason that those trees were not planted out—that you understood that they were not planted out?

The Chairman—Understood from whom?

Mr. Hall—Understood from myself, then. When they arrived at the proper size to transplant?

A.—Well, that we have the impression we could exchange those trees. There were too many for our plantation—for us to use in our plantation—and then they were not planted in the early part of the season, thinking that would be so. We had so many to plant out—I think I planted thirty thousand that season—and we found it was getting so wet we could not plant the balance of them out.

Q.—Had there been a larger force there to have prepared the grounds and make them ready for that plantation, and the expenditure of a good deal more money, might not those trees all have been planted out?

A.—Yes, sir; if there had been money enough and force enough we could have planted them all out.

Q.—Was I, as superintendent of that ground, to blame for having a surplus of trees in that nursery, over and above the number that we had to plant out?

A.—No, sir.

Q.—Who raised those trees and set them out there—the general direction of the nursery under yourself?

A.—It was Patrick Owens had the planting and seeing to the nursery under me.

Q.—Was that lot of cypress trees started before you came there?

A.—No, sir.

Q.—These were started after you came then?

A.—I think it was after I came there, and the reason there was so many was because the seed was so good; you might sow so many boxes for ten years again and not raise so many spruce trees again.

Q.—You were agreeably surprised to get so many trees?

A.—It was from the amount of good seed that we raised so many spruces; that is the reason, and I didn't like to throw them away, as I told you—that was the reason we put them in so thick.

Q.—What was the expectation then? What did we expect to do with that group of cypress, or nursery of cypress, when we found we could not plant them out?

A.—I believe you calculated to let it remain and cut walks in it, and make a cypress grove.

Q.—Well, what explanation did I make to you with reference to my intentions?

A.—Well, I don't remember—at that time—more than just that at that time.

Q.—What do you understand by cypress grove with walks through it? Isn't there another name?

A.—You might call it a maze—you could call it a maze—take a cypress grove and cut the walks out and leave the body as a hedge.

Q.—The trees that would be cut out of it in making such, and cutting out walks—and leaving the rest for a maze—would they be of use for anything—the stalks of them?

The Chairman—For stakes, for instance?

A.—Yes, sir; or for rustic work.

CROSS-EXAMINATION.

The Chairman—What is a maze, Mr. Henderson?

Answer—A maze is a very intricate place made of a hedge, so that it is very difficult to find the center.

Q.—Now this cypress grove you have been talking about, what is the extent of it?

A.—It is not large.

Q.—How large?

A.—About—I don't think it is—about a quarter of an acre, perhaps; probably more.

Q.—How closely are these trees—these cypresses—planted in this quarter of an acre?

A.—I think they are about two feet between the rows—one part of it—and about from fifteen to eighteen inches in a row. The other end of it is a great deal closer.

Q.—How much closer?

A.—In the row, probably, about nine to ten inches.

Q.—Apart?

A.—In the rows—I think the rows are closer. I found I didn't have ground to put them in.

Q.—How do you mean, sir; not have ground enough?

A.—I didn't have ground enough suitable for them.

Q.—What are cypress trees worth; what were they worth when you planted them?

A.—When I planted them out there?

Q.—Yes, sir.

A.—They were worth, probably from two dollars and a half to three dollars a hundred.

Q.—What is the average tree, two years old, worth?

A.—It would depend a good deal on the size.

Q.—I mean the average tree.

A.—Well, an average tree, two years old, probably from twelve to eighteen dollars a hundred.

Q.—What amount of care was bestowed upon that cypress grove after being completed?

A.—The first season it was watered a few times.

Q.—How do you mean by a few times?

A.—The first season it was watered, probably, once every two or three weeks.

Q.—The second season?

A.—The second season, I think, it was watered twice, I think, through the season.

Q.—How many men did it take to do all this?

A.—The first season a man could water it in about a day.

Q.—The second season?

A.—About the same.

Q.—What did it cost a hundred to plant those trees—just the labor of planting—a hundred in the grove?

A.—Well, I could not exactly say. A man could plant—

Q.—I mean to include now, sir, preparing the ground and the trees, and the labor of planting them, and the incidentals involved in that planting?

A.—Well, the ground was all prepared before—just merely dug the ground over.

Q.—I mean to include all that?

A.—Including all the whole?

Q.—Yes, sir.

A.—Oh, about four bits a hundred, I should imagine, without a close calculation.

Q.—Was there any soil, or manure, or anything of that kind put in the ground to prepare it for the cypresses?

A.—Only the mulching the year before.

Q.—What is that?

A.—Just manure spread over the plantation.

Q.—That cost something, I suppose?

A.—Yes, sir.

Q.—Do you include all that manure, the hauling of it, and the preparation of the ground in your fifty cents a hundred?

A.—No, sir.

Q.—Include everything.

A.—Manure and everything?

Q.—Everything. Every item of expense.

A.—Then I would have to go into considerable calculation to find that out exactly.

Q.—Take your time, sir, and go into the calculation.

A.—I should think all the manure that is there—six bits a hundred would cover it all. I think so; about that.

Q.—Now, sir, estimate the labor in caring for those trees for the two years?

A.—How much a hundred?

Q.—Yes, sir.

A.—Which do you mean—for the two years?

Q.—For two years, sir. How long has that cypress grove been in existence?

A.—I think two years.

Q.—Well, for the two years then?

A.—I should say about from six to seven dollars a thousand—six or seven.

Q.—Say sixty-five cents a hundred then. What is the average height of those cypress trees—that is, when you examined them last, three weeks ago?

A.—I should say they were from four to five feet.

Q.—It will average four, will it?

A.—I guess they will average more than four.

Q.—How long a stake can you make out of a cypress tree four feet long?

A.—Not long.

Q.—About how long?

A.—About two and a half feet or three feet, may be.

Q.—Are you, as a gardener, acquainted with the value of stakes in this market?

A.—No, sir; we generally make our stakes. We generally buy rails, and make our stakes.

Q.—What are stakes three feet long worth in this market, per hundred.

A.—That I cannot say.

Q.—Did you ever buy any?

A.—No, sir; not that length.

Q.—What does it cost you to make them?

A.—I never calculated that.

Q.—So you don't know the value of stakes three feet long, in this market?

A.—No, sir; I don't know what they would be worth.

Q.—In fact, sir, there is not much use for stakes three feet long in this market?

A.—Yes, sir; for pot plants we have them all the way to two, or three, or four feet—four feet, and so on.

Q.—I believe you testified that it was better economy to plant small trees?

A.—Yes, sir.

Q.—Small gum trees?

A.—Yes, sir.

Q.—Because the larger trees—the roots of the larger trees were twisted?

A.—Yes, sir.

Q.—Is that what they call the curled roots?

A.—No, sir; that is not what they call the curled root, it is different from that.

Q.—It is a different kind of a gum tree?

A.—No, sir; but it is a different thing that forms on the gum tree.

Q.—Explain that, if you please; this curled root of the gum tree?

A.—I suppose you mean from the curled root, a sort of a club?

Q.—Yes, sir?

A.—I believe that proceeds from a check in the sap?

Q.—This curled root, then, is not any particular variety of gum trees?

A.—There is some varieties that are more subject to it than others?

Q.—Then, sir; if you were buying gum trees to plant in the Golden Gate Park, or any similar locality, you would not select the larger trees, or those that have been transplanted, but you would select younger ones, or smaller trees?

A.—I would select the small seedlings.

Q.—It would be the seedlings you would buy?

A.—Yes, sir; it would be the seedlings I would buy.

Q.—Are you acquainted with the value of the different kinds of gum trees in this market?

A.—Partly so.

Q.—Can you inform the committee, as to the value of seedlings and transplanted gums, and block gums?

A.—What do you mean by block gums?

The Chairman—Just note, Mr. Henderson inquires what is meant by block gums?

[After discussion.]

The Chairman—You don't understand what is meant by block gums?

A.—If you mean gums that is transplanted, and intended to be cut out in blocks—cut out of the seed boxes—I presume that is what you mean by block gums.

Q.—I presume so. Will you give us, if you please, the respective values of seedlings, transplanted gum trees, and block gum trees, in this market?

A.—Well, they would range—

Q.—Begin with seedlings, if you please?

A.—Seedlings would be, I imagine, from eight to fourteen cents—fourteen dollars a hundred.

Q.—A hundred?

A.—From eight dollars to fourteen dollars a thousand.

Q.—Well, sir, the transplanted ones?

A.—The transplanted ones—those plants would be worth from thirty to forty dollars a thousand, and these block gums, if they were good plants, would be worth more, probably fifty dollars—from forty to fifty.

Q.—These are the present rates, or then?

A.—They are the present rates; not this time of year, because this time they would be a little cheaper; those are the rates at the height of the season.

Q.—When is the height of the season?

A.—About December.

Q.—December?

A.—Somewhere about December.

Q.—And the rates you have mentioned would be at about December rates?

A.—From November to the middle of January; and then it would depend sometimes on the sorts, and sometimes on the quantity there would be in market.

Q.—You still insist that if you were planting out there you would plant seedlings?

A.—Small trees.

Q.—Seedlings?

A.—I would plant trees that the roots had not been twisted in the boxes, or such as that.

Q.—You call them seedlings. Don't they come under that class?

A.—Well, they come in that class.

Q.—Then you have said some of these groups and groves were not planted as thickly as you desired.

A.—No, sir; if I was planting myself, I would plant still thicker.

Q.—Do you consider it true economy to plant three or four trees—just take this as an example—with the ultimate intention of destroying two or three out of the four?

A.—Yes, sir.

Q.—Explain that, if you please, sir.

A.—If I plant out a clump of trees, say I plant ten in the clump, and I intend ultimately for five to grow and five to be destroyed, I plant the five in the exposed places, so as to protect the others, and as soon as they accomplish what I want them for, I chop them out and leave the others to grow to form the hedge better; they will grow faster, and make better trees.

Q.—Is there no more economical way of arriving at the same result?

A.—Not that I am aware of, sir.

Q.—That has been the custom among gardeners, I suppose, from time immemorial.

A.—As far as I know; that is my experience.

Q.—How long have you been gardener in San Francisco?

A.—About twenty years; not all of the time. I have been gardener about fifteen years in California.

Q.—You are aware, I suppose, of the general direction of the prevalent summer winds?

A.—Yes, sir.

Q.—What is that direction?

A.—From the west—western direction.

Q.—These thick plantings you speak about are made for the purpose of protecting—having the trees protect each other from the wind?

A.—Yes, sir.

Q.—For the purpose of producing straight and seemly trees?

A.—Yes, sir; that is the idea.

Q.—In a large plantation, cannot the same result be produced by planting a thick belt of trees along the entire windward side of that plantation, and then planting the trees you intend to remain at the proper distances—the distances you intend that the trees shall ultimately stand at?

A.—No, sir.

Q.—Why not?

A.—Should there be no wind at all, your trees will grow better if planted thick than if planted thin.

Q.—These are valuable trees; might not some cheaper class of trees be planted in along with them, and have these cheaper trees ultimately destroyed?

A.—No, sir; I don't see any cheaper class of trees you can get than pine and cypress, with gums.

Q.—What are the respective values of pine, cypress, and gums?

A.—Well, I believe that cypress is the cheapest.

Q.—What are they worth, sir?

A.—From ten dollars to fifteen dollars to twenty dollars a hundred—large plants.

Q.—Well, the others?

A.—Pine and cypress, about the same, probably a little higher; about fifteen dollars to twenty-five dollars.

Q.—Well?

A.—Gums all the way from ten dollars; this is large plants; it is not seedlings; it is good, established nursery plants.

Q.—These are plants that have been subject to two years' care?

A.—About two years' care; one since raised on seed, the other in the nursery. Gums from ten dollars to fifty dollars, I should think.

Q.—Would it not be economy, therefore, when you plant these more costly trees with a view to having them remain in places where planted, to surround them with these cheaper trees that you intend ultimately to destroy, and not plant the same valuable trees altogether?

A.—Well, that was the idea I had when I planted there. I planted the cypress and the pines in among the others so as to use them for the protection of the others, and cut them out.

Q.—Well, then, if you were cutting out of a clump of that character, would you cut out the pine and leave the gum?

A.—Some of them I would; I wouldn't cut them all, but would leave some, so as to make a diversity in the clumps.

Q.—Wouldn't it have been the true policy to have planted them with that view originally—with a view of leaving the gum, and cutting out the pines?

A.—You could do that with some of the clumps if you wish to.

Q.—Are you aware that in several of our public squares, for instance, the one on Post and Stockton streets, and on Turk street, out that way, that these plants are planted at large distances apart, and still they flourish?

A.—Yes, sir; I know they grow.

Q.—Don't they grow as well as those out to the park?

A.—No, sir; I don't think they do quite so well.

Q.—To what do you attribute it?

A.—In the first place, I think that the trees that were planted in the Turk street square were too large when they were planted.

Q.—In the Turk street square?

A.—Too large, and not planted thick enough.

Q.—You know they are some eight or ten feet apart, don't you, in many instances?

A.—Yes, sir; I believe they are.

Q.—And don't you know that the same custom prevails in many private grounds in this peninsula?

A.—Yes, sir.

Q.—Still the trees flourish?

A.—Yes, sir; they will grow.

Q.—And they grow pretty well, do they not?

A.—Where the winds don't prevail, they do. Where the winds prevail, they are considerably one-sided.

Q.—Were there any trees in the park that by reason of the stakes

being cut away from them were permitted to grow one-sided, and, in some instances, to blow down?

A.—No, sir.

Q.—Do you know of any stakes having been cut down there?

A.—No, sir; not that I know of.

Q.—You do not know of any there?

A.—Not to my knowledge. I had them all staked while I was there.

Q.—Is there any necessity for cutting down stakes at all?

A.—Sometimes there is.

Q.—Under what circumstances, sir?

A.—Sometimes the ground gets so soft that the tree, stake and all, gets blown on one side, and you cannot straighten it up without taking the stake away.

Q.—Cannot the stake be taken out without cutting it?

A.—There are some instances where the roots get around the stake, and you cannot pull the stake up without sacrificing the tree. I prefer to sacrifice the stake rather than the tree.

Q.—Are those circumstances frequent where you must destroy the stake in that manner?

A.—I do not know that they are frequent; I have had them occur.

Q.—Rather rarely?

A.—Yes, sir; it is rather the exception than the rule.

Q.—You had thirty thousand cypress trees there at one time, I think you testified?

A.—I don't know. I didn't testify I had thirty thousand cypress trees. We planted out over thirty thousand trees.

Q.—How many cypress trees did you have during that very successful season that you spoke about?

A.—I should think that we had about twenty thousand.

Q.—Twenty thousand cypress trees?

A.—In that neighborhood.

Q.—Entirely too many to use that season?

A.—Yes, sir; on account of having too good seed.

Q.—You didn't use them, I believe you testified, because there was not money enough, or force enough?

A.—We used what we could in mixing in with other trees.

Q.—Yes, sir; but the reason why they were not all used at the proper time was because you didn't have force enough, or money enough, to do so?

A.—Yes, sir.

Q.—Were you acquainted at that time with the general work going on in the park?

A.—No, sir; not outside of my own department.

Q.—Do you know of any great amount of cutting, or filling, or grading, that was going on in the park about that period?

A.—There was considerable work going on outside, but I could not tell you now what it was.

Q.—Do you know this tunnel, or cut, up here, out in the direction of the western portion of this northern drive?

A.—Yes, sir.

Q.—Opposite Nineteenth Avenue?

A.—Yes, sir.

Q.—Was that going on during the time you were at work there?

A.—Yes, sir; I believe that was cut while I was there?

Q.—That was cut while you were there?

A.—Yes, sir.

Q.—How did that compare with the time that these trees might have been used—these cypress trees?

A.—Well; I don't know.

Q.—About that time?

A.—I couldn't say.

Q.—So far as you can judge?

A.—Well; I could give no idea, sir.

Q.—This cut was going on, however, during your employment at the park?

A.—Yes, sir; there was. Part of it was cut while I was there.

Q.—When did you quit the employment of the park?

A.—The middle of last April.

Q.—When might these trees have been used advantageously—when could you have planted them all out?

A.—Well, they were in a state to be planted all last winter; not this winter, but last winter—eighteen hundred and seventy-four—five.

Q.—That was the winter before you left?

A.—Yes, sir; that was before I left there?

Q.—Was that work going on at that time; during that winter?

A.—Well, I could not say, sir. No, sir; I could not be positive.

The Chairman—Gentlemen of the committee, I will suspend the cross-examination of this witness, for the purpose of recalling Mr. Hall, and asking him one question on that point.

WILLIAM H. HALL, recalled for further cross-examination.

The Chairman—When was the work on that tunnel begun—on that cut opposite Nineteenth Avenue, if you remember?

A.—If you will allow me that report you have there of mine. [Refers to the report.] It was during the winter of eighteen hundred and seventy-three—four, sir, that that work was going on.

Q.—And it continued right along?

A.—Yes, sir. The work of building that road was commenced in December, eighteen hundred and seventy-three, and finished in June, eighteen hundred and seventy-four.

Q.—Which do you mean, sir?

A.—The building of that road on which—

Q. [Interrupting]—No, I am speaking of this tunnel work.

A.—Well, that was the work. Building this road was commenced in December, eighteen hundred and seventy-three, and completed. You see, under the head of "Northern Drive," it says it was commenced in December, eighteen hundred and seventy-three, and completed in June, eighteen hundred and seventy-four; and that work of cutting was going on at that time, of course, as it was a portion of building that road.

Q.—Let me ask you right here then, Mr. Hall: This is your last report is it not?

A.—Yes, sir.

Q.—The third biennial report. You say here in your report that it was commenced in December, eighteen hundred and seventy-three, and completed in June, eighteen hundred and seventy-four, having taken within a few days of six months in its construction?

A.—That is, the work that was done.

Q.—Did you mean that? Did you mean all that you have stated here, sir?

A.—I mean there was built of that road this three miles of roadway.

Q.—I am speaking of this tunnel, or cut, or whatever you please to call this. Do you mean that that is built?

A.—That refers to the building of the northern drive, sir. You will see that there.

Q.—I understand the northern drive. Well, this is designated here as your northern drive. Of course, you have a temporary road around there? [Showing.]

A.—The northern drive extends from Sixth Avenue through to the bridge—about six miles. Now, it was commenced and finished at the dates I have mentioned, and mentioned yonder [in the report]. During that time, during that six months, there was work going on at this point marked "Tunnel," which is now an open cut. It was not all of that six months, by any means; probably not more than two or three months of that time; but it was some time during those six months.

A.—You do not pretend to say, though, that that northern drive, as originally designed, is completed?

A.—No, sir; I do not.

Q.—And yet your report says so?

A.—No, it does not. It says that it is not completed—especially says so, here on page twenty-four of this report. I will read. [Reads.] "At a point about one-third of the distance from its eastern extremity the northern drive encounters a rocky hill, which extends in a northwestern direction from Strawberry Hill, designated in the former reports as the great transverse ridge which separates the east from the west part, as it will be some day. It is designed to carry the drive through this ridge by means of a heavy cutting at a low point, and thus render the passage imperceptible, so far as an inclination in the roadway is concerned. From this cut all the clay and a great portion of the rock used in the construction of the road was obtained; but the macadamizing material being of an inferior quality, the cut had to be abandoned as a quarry, and material obtained for the road surface from the top of the ridge; so that it was not completed when the road each side of it was finished. A side road over the hill was then built to accommodate immediate requirements, which it does very well; leaving the surface material in the big cut to be quarried when it shall be needed in other roads projected in that portion of the reservation, for which purpose it will do very well, as it was used on the northern drive simply as a primary layer of the surface."

Q.—When did you, then, abandon the work on that cut?

A.—About the last date given—June, eighteen hundred and seventy-four, is it not, sir?—when the road as it stands now was completed.

JAMES S. HENDERSON, recalled for further cross-examination.

The Chairman—Mr. Henderson, Mr. Hall in his examination of you, inquired whether it was his fault that these cypress trees were not planted out at the proper time, and between you two together, the committee was informed that it was because there was not money enough in the fund, or balance enough to do the work. I do not

desire to discuss the proposition with you, but, if this cut or tunnel that has never been touched since June, eighteen hundred and seventy-four, had not been attempted, might there not have been money enough in the fund to have saved these fifteen or twenty thousand cypress trees, and make them available and useful in the decoration of that park?

Answer—Yes, sir. But there are not fifteen or twenty thousand cypress trees now. I planted out six or eight thousand, and I don't think there is over twelve thousand cypress trees left in the nurseries as it stands. There was about twenty thousand altogether, and I planted out, I should say, from six to eight thousand.

Q.—Can they be transplanted now with any hope of success?

A.—I think they could.

Mr. Broderick—You say they grow some nine inches apart, do you?

A.—That is in one tract of them there.

Q.—And from eighteen to twenty inches in the other?

A.—Yes, sir; from eighteen to twenty inches in the other.

Q.—Don't the roots entangle there?

A.—Well, they will; but by cutting them down there are hopes of saving them.

The Chairman—I am speaking of transplanting, not cutting down?

A.—Well, I would transplant and cut down at the same time. If I was transplanting them I would cut them down then.

Q.—Destroy a certain portion of them?

A.—Yes, sir; cut off the top. Probably they might not be able to save them. I did not examine the roots.

Mr. Broderick—That would hardly pay, would it, at seven dollars a hundred?

A.—They are worth more than that.

W. C. BURNETT, called for the committee, sworn.

The Chairman—You are the City and County Attorney, I believe?

Answer—Yes, sir.

Q.—The Park Commissioners had a contract with the Spring Valley Water Company to furnish the park with water, at the rate of four hundred dollars per month. That, I believe, is the figure, Mr. Hall?

Mr. Hall—That was the original figure; yes, sir.

Q.—The Park Commissioners paid two months' water-rates, at four hundred dollars a month—then stopped paying. The Spring Valley Water Company have continued, however, according to the testimony before the committee—the testimony of Mr. Eugene L. Sullivan, particularly, one of the Commissioners—to furnish the park with water. The company has sent bills to the Commissioners repeatedly, that the Commissioners have declined to pay. That indebtedness has been running along—if it is an indebtedness—at the rate of four hundred dollars a month, for something in the neighborhood of two years. Who, if anybody, in your opinion, as City and County Attorney, is liable for that amount?

A.—You assume, in your question, that somebody is liable?

Q.—Presumably so. The Park Commissioners recognized the indebtedness for two months, at least, by paying the debt.

A.—Well, I know but very little about the matters of the Park Commissioners in any way.

Q.—Well, sir, there are the facts; the contract was entered into

between the Park Commissioners and the Spring Valley Water Company. I am speaking now from the testimony of the Commissioners.

A.—As I understand you, these bills have been sent to the Commissioners—not to the Board of Supervisors?

Q.—Not to the Board of Supervisors.

A.—I suppose, no matter what the Supreme Court may decide as to the liability of the city or the Park Commissioners to pay for water, the city cannot be liable after the expiration of a year from the time any of the months' supply of water has been furnished and no bill sent to the Board of Supervisors.

Q.—That is, the city proper?

A.—Yes, sir.

Q.—The Park Commissioners, however, have informed this committee that they made a contract with the Spring Valley Water Company at the rates I have mentioned.

A.—If it is paid at all, I suppose it will have to be paid out of the park funds. They certainly cannot hold the City and County of San Francisco directly liable without sending bills to the Board of Supervisors.

Q.—Within one year?

A.—Yes, sir.

Q.—Well, sir, the Park Commissioners have been a little government in themselves, so far as the matter intrusted to them is concerned. They have made this contract at four hundred dollars a month. Is the Commission or its successors liable for that amount?

A.—You say they have made an agreement absolutely to pay that money—four hundred dollars a month—no matter what the decision of the Supreme Court may be in future? That is the first I have ever heard that there was such a contract as that. [The Secretary of the Commission produces a copy of the contract.]

Q.—You will note what I read from the copy of the contract presented by the Secretary of the Park Commissioners, entitled "Copy of an agreement with the Spring Valley Water Company to furnish water for Golden Gate Park Avenue. Ordered on file April fourteenth, eighteen hundred and seventy-three. Application and agreement—We hereby agree to take water from the Spring Valley Water-works, at the rate of four thousand eight hundred dollars for one year, payable monthly, in United States gold coin, for and not to exceed one hundred thousand gallons daily, for the Golden Gate Park, term to commence on the first of April, eighteen hundred and seventy-three, or as soon as we can lay sufficient pipe for disposition. And in default of such payment being duly made in advance, or if the above regulations [referring to certain regulations printed above here, which I have not read] are in any respect violated, the said Spring Valley Water-works may disconnect the water, at our own costs and charges, according to the above regulations, of which we have been duly notified. [Signed,] E. L. Sullivan, S. F. Butterworth, Park Commissioners."

A.—If that amount is to be paid at all, I suppose it will be paid out of the park fund.

Q.—Well, sir; Mr. Sullivan, one of the Commissioners, and Mr. Fleming, the Secretary, testified before this committee, that for nearly two years no money has been paid on account of this agreement. You know nothing, sir, of the well, or the steam-engine to pump

water therefrom, or the tank, furnishing twenty-five or thirty thousand gallons of water a day?

A.—No; I know nothing about that.

Q.—This was at work quite a long time; was used five months, but has not been used for nearly two years. You know nothing about that?

A.—No, sir.

Q.—What is the condition now, sir, of the litigation between the City and County of San Francisco and the Spring Valley Water Company?

A.—The Spring Valley Water Company has a mandamus suit pending in the Fifteenth District Court against the Auditor, to compel him to audit the sum of two hundred and ninety-two thousand two hundred and fifty dollars, upon a demand that was presented to the Board of Supervisors a long time since and allowed, and rejected by the Auditor, and appeal taken to the Board of Supervisors, and on that appeal the claim again allowed by the Board of Supervisors and a demand made by the water company upon the Auditor to enter a minute in the book kept in his office of the fact of the second presentation to him of the demand, and, upon his refusal, a mandamus taken to compel him to make the entry in the book.

Q.—That went to the Supreme Court, did it not?

A.—No; that case is still in the Fifteenth District Court, on argument. It has been argued two or three days, I think, and is to come up again next Friday. In that case it may possibly be determined whether the city will be compelled to pay for watering the parks; but it is barely possible that the case will go off without reaching that point.

Q.—In the face of this agreement and contract by the Park Commissioners to pay four hundred dollars per month for watering the park, could any decision of the Fifteenth District Court on this mandamus question possibly relieve the Park Commissioners from that payment?

A.—I could not tell that without examining the Act giving authority to the Park Commissioners; and as I did not know why I was called here, I have not looked at it at all, and am not thoroughly posted just at this moment.

Q.—Well, sir, I will put the abstract proposition to you: Here is an independent body, a Board of Park Commissioners, acting entirely independent of any other branch of the city government, or State government, if you will, with a supposed right to take all necessary steps for the management and preservation of the property and business in their charge. They, in their discretion, have made a contract—a direct contract—for the payment of so much money—four hundred dollars per month—for at least one hundred thousand gallons of water daily. Can they avoid the payment of that contract?

A.—That is rather a nice question. If the city succeeds in establishing the fact that, by the terms of the permission given to the Spring Valley Water-works to lay down pipes in the streets of San Francisco, it is bound to furnish water to the parks free of cost, I hardly think that this Park Commission could make a legal contract to pay it in the face of that law. I think that, if the right is in the city of having the parks watered free by the Spring Valley Water-works, this contract would not stand seriously in the way. Of course there would have to be a fight over it; there would be litigation.

They would contend for the right to recover, and there would be rather long litigation; but I do not think there would be any further trouble.

Q.—There is a matter of ten thousand dollars depending on it now?

A.—O, they will fight for more, or less.

CROSS-EXAMINATION.

Mr. Hall—Mr. Burnett, I will call your attention to section two of the Act amendatory of and supplemental to an Act to provide for the improvement of the public parks in the City of San Francisco, approved the fourth of April, eighteen hundred and seventy. [Showing it.] That is the title, sir; and section two is what I wish to call your attention to. Now, sir, under that section could the Park Commissioners have continued to pay for the water obtained from the Spring Valley Water Company without the signature of the Auditor to their vouchers?

Answer—I know section two of that Act has amended section ten of another Act.

Q.—I will just state, sir, that the Auditor refused to audit the vouchers.

A.—I know he would not audit them; he told me so at the time.

Mr. Hall [to the Chairman]—If you will allow me, I will just have this section placed on the record. Section two reads: "Section ten of said Act is hereby amended so as to read as follows: Section 10. The Park Commissioners shall sell the bonds from time to time, as the money arising therefrom shall be needed, for the prosecution of the improvements on said parks; and all money arising from sales of bonds shall be paid into the treasury of the city and county, to the credit of a fund to be known as the Park Improvement Fund, and shall only be drawn therefrom upon the order of said Park Commissioners, or a majority of them, audited by the Auditor of said city and county."

The Witness—I heard the Auditor say—it must have been about the time of the date of this agreement you have read to-night—that he should not audit any bills for water furnished for city purposes, for the park or anything else.

The Chairman—Did he mention the park?

A.—Yes, sir, the park was mentioned; and the fact was mentioned, too, that they had paid four hundred dollars a month, but I do not recollect for how long. But I did not know of this agreement until to-night; I do not think that I ever heard of it.

Mr. Hall—I will also call attention to the fact that the agreement was for one year only.

The Chairman—That is set out in the agreement.

EDWARD M. MILES, called for Mr. Hall, sworn.

Mr. Hall—It may be remembered, that at the former sitting of this committee, the witness Hodnett testified that he handed me a memorandum of work performed by some of the park men on a portion of some day—a few hours, I think. He said it was for assisting to stop a leak in the Spring Valley reservoir. I wish to show by this witness, Mr. Miles, whether or not any such bill was ever paid.

Question—What is your occupation?

Answer—I am Secretary of the Spring Valley Water Company.

Q.—How long have you been engaged in the Spring Valley Water Company?

A.—Almost fifteen years.

Q.—Have you examined the books of that company at my request, or at the request of a personal friend of mine, lately, with a view to finding whether a bill or a sum of money was ever paid me on a bill for work paid to men out there?

A.—Yes, sir.

Q.—Is there any such entry to be found?

A.—No, sir.

Q.—Was that bill ever paid, to the best of your knowledge and belief?

A.—I don't think it was, sir. It is not on the books if it was.

CROSS-EXAMINATION.

The Chairman—Was any such bill ever presented?

Answer—I never saw such a bill. I never heard of it. I never knew of the occurrence even.

Q.—Was not the accident reported at the main office?

A.—Not to me. Being such a trivial one, it would not be likely to be reported.

Q.—To whom are all such accidents reported?

A.—To me, when they are of any importance.

Q.—This one was not of sufficient importance to justify a report?

A.—No, sir; we have them weekly.

WILLIAM H. HALL, re-called.

The Witness—Mr. Hodnett did hand me a memorandum of some work of that character, for that purpose. The full amount might have been sixteen dollars, eighteen dollars, or twenty dollars, if I counted it. The people came from the flume of the Spring Valley Water-works out there, and asked us to send some men over in haste to assist in turning some drain, or stopping a leak, or something of that kind, that had to be attended to in such a hurry that they could not send to town to get the assistance. The men went over from the Park and did the work in the course of an hour or an hour and a half. I never presented any bill for it, for the reason that I reported the matter to the Commissioners verbally. I never presented any bill for it, for the reason that I thought it would be like charging a man across the street for helping extinguishing a fire in his house; it would be petty and trivial; and there was no bill ever presented, or account made of it on the accounts, or in any other way, that I know of. That is all, sir.

Mr. Broderick—Did any of the witnesses, or yourself, testify when we were down here before that such a bill was presented?

A.—No; it never was in testimony. Hodnett testified merely that he had given me this memorandum; and now I wish to show what disposition I made of it—that I never did anything in the matter at all.

Q.—You say it was about sixteen dollars, or eighteen dollars, or twenty dollars?

A.—It probably was sixteen, or eighteen, or twenty dollars; yes, sir. Mr. Hodnett himself testified that it was twenty dollars, or

twenty-four dollars, I believe. It might even have been twenty-four dollars; but my recollection is eighteen or twenty dollars.

WILLIAM LOCKINGTON, called for Mr. Hall, sworn.

Mr. Hall—What is your profession?

Answer—Landscape gardener and architect.

Mr. Chairman—Do you mean architect of buildings, or landscape architect?

A.—Architect of buildings, also.

Mr. Hall—And architect of landscapes, also?

A.—Yes, sir.

Q.—What has been your experience in your profession, sir.

A.—My experience here has not been very large. I have only been here two years, or rather more; but I had considerable experience in the neighborhood of London, before coming here; principally, however, in the designing, building, and general laying out grounds.

Q.—From what point of view have you made this subject a study?

A.—From an artistic point of view, entirely.

Q.—Have you ever visited the Golden Gate Park?

A.—Yes, sir.

Q.—How long ago, sir.

A.—On the last occasion, about a month ago.

Q.—At whose request?

A.—At your request.

Q.—While there did you examine a certain point on the southern drive, about opposite Second Avenue, where a cut had been made through the point of a hill?

A.—I did.

Q.—In your opinion could that cutting have been avoided in the construction of that drive?

A.—It could not.

Q.—Could not have been avoided, maintaining an easy curvature upon the roadway—an easy grade?

A.—No, sir; it could not have been avoided, but with a very abrupt curvature, and injury to the appearance of the park.

CROSS-EXAMINATION.

Mr. Broderick—How long were you in the park?

Answer—I had been out there previous to that. I was there then about two hours.

Q.—Did you have any instruments with you?

A.—No, sir; I had no instruments with me.

Q.—Were you on the top of the hills to look at the surrounding ground?

A.—I was at the top of those hills afterwards.

Q.—Did you observe the topography of the country?

A.—I observed it on previous occasions, and also afterwards. I did not on that occasion.

Q.—You do not know what the land was like before those roads were cut, do you?

A.—It was chiefly sand-banks.

Q.—Well, did you know?

A.—I was not there previously, but I know it was chiefly sand-banks.

Q.—How do you know?

A.—The surrounding country is of that nature.

The Chairman—That is an opinion of yours?

A.—It is so underneath there now.

Q.—You do not know that it was sand-bank there before?

A.—Certainly; just as I know there are sand-banks there now, the greater part of it.

Q.—Do you know whether or not there were sand-banks there at any time?

A.—At that particular point? I thought you meant all over.

Q.—We are talking about this one point?

A.—That is a sand-bank?

Q.—What is left of it; yes, certainly?

A.—Yes, sir; and all that was cut out of it.

Q.—Do you know what was there in that direction? [Showing].

A.—I cannot say what is in that direction; but what is left there is a sand-bank.

RE-DIRECT EXAMINATION.

Mr. Hall—Did you observe any waste banks in that neighborhood?

Answer—I did.

Q.—Did you observe waste banks?

A.—I observed a waste bank, certainly.

Q.—Where?

A.—Do you mean a waste, a spoil-bank, a bank with waste in it, or a bank of used earth?

Q.—A bank of earth that has been used.

A.—I observed a bank of earth that has been used where the road was made, but whether that was what came out of that cutting or not, I cannot tell. I observed the earth was scattered around on the embankment near to that cut. That is what I thought you alluded to in mentioning a spoil-bank.

Q.—Well, did you observe any bank of earth in the region of that cut that was not used?

A.—No; I did not observe that.

The Chairman—How can this witness know?

Mr. Hall—I meant, any embankment that looked as if it was put there by artificial means, that was not in use as a bedding of the road.

The Chairman—What do you mean?

Mr. Hall—I mean a bank of earth taken from some other place, and not used for the purpose of road construction, taken out of that cut.

The Witness—I did not observe such a thing.

Q.—In making that cut through there, do you consider any money was unnecessarily expended?

A.—Certainly not; not if the material taken out of that cut was used on the other parts of the road; because the cut itself will be a feature in the park when finished, and such features as that are wanted out there.

Q.—Did you observe here on the northern drive, and about opposite Nineteenth Avenue, at the point marked on this map as a tunnel—did you observe a cutting there?

A.—I did.

Q.—A portion in rock. Were there any advantages derived from making that cut, if you know?

A.—From the plan of that road as it at present stands, it crosses the hill at the lowest point. To cross at that point, the cutting is certainly necessary, unless you rise at an angle not at all a good one to drive over. I don't know how the cut could be avoided without a detour.

The Chairman—Without a what?

A.—Without a turn around the hill, which, in fact, the present temporary road does make.

Mr. Hall—Would a road with this detour, or turn round the hill, possess equal advantages with that already made?

A.—No; it has too abrupt curves. Besides which, the cutting itself may finally be made one of the greatest ornaments of the grounds, well treated, as a piece of picturesque rock-work, as I presume it will be.

RECROSS-EXAMINATION.

The Chairman—Did you examine, in addition to that cut, this tunnel here at Nineteenth Avenue. In addition to that, did you examine the surrounding ground?

Answer—I saw the general trend of the hills after that rise, on each side of that, and that there is a ravine leading up to that cut—at least, you can scarcely call it a ravine; it is a slight hollow, because the hill there is not very deep—leading up to that cut on both sides; so that it really takes the hill in the narrowest place.

Q.—What is the greatest depth of that cut as it stands at present?

A.—I could scarcely say. I did not measure it, of course.

Q.—What is the height of it; what would you estimate it to be?

A.—I have not in any way measured it.

Q.—Is it twenty feet deep at the deepest point?

A.—Certainly; it is more than that.

Q.—Is it one hundred feet?

A.—Not so much.

Q.—Give us an intermediate figure that would be about it.

A.—I should say from fifty to eighty; I could not say nearer.

Q.—Did you examine the topography of the ground to the north of that cut?

A.—Not particularly, but there is a continuous hill in that direction. I did not notice where it ended—not within the grounds of the park, I believe.

Mr. Broderick—Did you notice the formation to the north and to the west? When I say "formation," I mean whether it was sandy or rocky inside of the boundaries of the park?

A.—This is rocky at that point.

Q.—Does that rock run to the left of the park?

A.—Certainly. It runs outside of the lines of the park. I have not examined it by digging through; but that ridge is rocky. When you get underneath the surface, you find that is a rocky ridge.

Q.—How deep is it?

A.—I don't know. It is covered with sand in places.

Q.—That might be?

A.—I say there is rock.

Q.—You answered just now you did not examine that. Is that so?

A.—What do you mean by examining it? That ridge is a rocky ridge.

Q.—Did you go up on top of the hill to ascertain?

A.—We passed over the hill in going to the west.

Q.—I mean to the north here?

A.—I did not pass over the north of it; no, I did not.

Q.—Then you do not know what the formation of the land is between the north point of that hill and the fence of the park?

A.—I know it is a continued ridge of rock. I have not sounded to find the rock all along; but if I see a range of mountains, and know one part of it is rocky, and I see that same formation running on for three or four hundred yards in advance, I conclude that is rocky without going to touch it.

The Chairman—Do you know the elevation of the land within the limits of the park and to the north of the hill which is north of the tunnel or cut, as compared with the tunnel?

A.—I do not.

Q.—Then you are not prepared to say that this cut was the most judicious and economical way of running a road through there to the west?

A.—I know there is no place to the north but would be a higher place.

Q.—Are you sure that to the north of the tunnel, and within the limits of the park, there cannot be found a place where a road can be run at a much easier grade than the road to the left of the tunnel, and at a much slighter elevation than the cut or tunnel?

A.—Well, I believe not; because here there rises—

Q. [Interrupting]—Did you examine the ground between the hill north of the tunnel and the northern line of the park?

A.—Between the hill north of the tunnel and the northern line of the park? I did not examine it.

Mr. Broderick—You examined the formation of the country to the west of it, did you not, between the hill and the line of the road to the east, a quarter of a mile?

A.—I did not examine beyond, to the west?

Q.—It is sand?

A.—There is sand resting on the hills on both sides, especially on the western side.

Q.—Do you think it would be easier to cut through that hill of rock than it would be to cut through a sand-bank?

A.—Certainly, I suppose it would be easier to cut through a sand-bank. There is this difference, though; that the rock would be of use when it is taken out, and the sand would not.

The Chairman—What did you mean when you stated there was no money unnecessarily expended in this cut? [Showing.]

A.—I mean, that had this road been taken around that point [showing] it would have made a very abrupt curve, and spoiled the appearance of that part of the park; and I said there was no money unnecessarily expended there if the material taken out was used.

Q.—Do you know, sir, whether it was necessary to make an abrupt curve in running that road to the right?

A.—It would have been necessary unless that hollow had been partially filled up, which would again have been an item of cost.

Q.—Might not this southern drive have been deflected more to the left, at about its intersection with First Avenue, and then to the right, towards its intersection with Second Avenue, as extended?

A.—It would have passed through the same—

Q.—Could not that abrupt curve, you speak of, have been avoided entirely?

A.—It could have been avoided by a different curve, but it would have gone through the same number of, or even more sand-banks by doing so.

Q.—How do you know it would have gone through more?

A. [Showing on the map].—There is a sand bank here.

Mr. Broderick—Suppose Mr. Hall had taken any of this ground from the cut and deposited it in the neighboring ground about here, and then covered it over with grass and shrubbery, and everything of that kind, would you, of your own knowledge, to-day know anything about it?

A.—It would depend on how long ago he had done it. If he had done it a year or two I should know; if he had done it seven or eight years ago I could not. It would have been covered over with the same growth as the rest of the land.

Mr. Broderick [to Mr. Hall].—When did you make this?

Mr. Hall—About three years ago.

Mr. Broderick [to witness].—Suppose he had found he had too much, and deposited it here and covered it with shrubbery, etc., would you know, as an engineer, that that came from this cut?

A.—I would know it did not form a part of the continuous hills. I would not know it came out of the cut.

Q.—If Mr. Hall told you it came out of the cut, you would know it?

A.—If he told me so I would know it.

Q.—All you know about this filling is, that Mr. Hall told you it came out of the cut?

A.—I never testified that the filling did come out of the cut. I could not tell you that it did.

S. M. B. HALEY, called for Mr. Hall, sworn and examined.

Mr. Hall—What is your business?

Answer—Artesian well-borer.

Q.—How long have you been engaged in that business?

A.—About twenty-two years.

Q.—Where have you been engaged in the business?

A.—Well, eight years in San José Valley, round about San José and Santa Clara; two years in Los Angeles County and thereabouts, the rest of the time around San Francisco and other counties adjoining.

Q.—How many years around San Francisco and other counties adjoining that, then?

A.—The rest of the time, I say.

Q.—How long would that be—the rest of the time?

A.—About twelve years.

Q.—How many wells do you suppose you have bored in that time?

A.—Well, they would run up into the thousands, but how many I would not like to state. I suppose from one to two thousand.

Mr. Broderick—I am quite well satisfied Mr. Haley knows his business. I have known him many years as a well-borer.

Mr. Carson—We will accept him as an expert.

Mr. Hall—Did you bore a well at Golden Gate Park?

A.—I did, sir.

Q.—Did you have anything to do with the location of that well?

A.—I did.

Q.—Were you consulted in the matter before it was located?

A.—I was.

Q.—Did you give any advice as to the location of it?

A.—I did.

Q.—What advice did you give, and to whom?

A.—I advised with you to get down in that low swale, as low down in the swale as you could conveniently use the water without too great expense leading it back to the road.

Q.—Well, at the point where this well was attempted, did you consider a good place to bore a well?

A.—I did.

Q.—Did you get water in boring that well?

A.—I did, sir.

Q.—Did you strike a good water seam?

A.—As good a one as I have ever struck in this county.

Q.—Do you know anything of the water supply from that well after its completion?

A.—Well, I don't, only from hearsay; I have been so busy that I have not been to it since it was started; only what I heard the wind-mill-men say about it.

Q.—Do you know what sort of pump was put to that well in the first place?

A.—Well, that will be hearsay again—I didn't see it.

Q.—Can you understand how water in a well may give out to a common suction-pump, and still be in great abundance for a lift pump?

A.—Yes, sir; the fountain-head of the water is not sufficiently high to give the extra force to raise it to the surface, and then the outlet, the outflow of the water, is sufficient to let the water escape under this little pressure that it has, say between the feed up to the top; so you get a pump, the lift pump, down into the body of the water, there is no such a thing as exhausting it at all; as well try to exhaust the bay into the water-level—that is the condition of that well; it is near the beach, and the outflow escapes through the loose sand into the ocean. It is not confined there at all.

CROSS-EXAMINATION.

The Chairman—What is the depth of that well?

Answer—It is one hundred and seventy-seven feet.

Q.—What is the diameter?

A.—The first pipe is twelve inches in diameter.

Q.—How far does that run?

A.—I am not positive as to that, but I think it is one hundred and twelve or one hundred and thirteen feet—it may be eight—but it is right in that vicinity; I recollect I struck the water there in the strata—then that was stopped.

Q.—Then?

A.—I inserted eleven-inch perforated pipe through the water, boring the strata that ran to the full depth of the well. You take from that to one hundred and seventy-seven feet. Then the twelve-inch pipe is lined with a ten-inch pipe—I wouldn't be certain now whether six, eight, or ten-inch pipe; the lining of galvanized iron, zinc; it is either one of two—eight or ten—and then cemented between the two above the water strata.

Q.—Properly pumped, what is your estimate of the water that that well can supply per day?

A.—Put in a large pump and that well can supply twenty thousand gallons easily.

Q.—How large a pump would that require?

A.—Well, it would be what is known among pump-men about six-inch cylinder—six and a half.

Q.—Do you believe that there is a constant supply all the year round in that well?

A.—I do, sir.

Q.—Of twenty thousand gallons of water per day?

A.—If you get deep enough into the well with your pump.

Q.—Do you know anything about the cost of running such a well as that with a proper steam-engine and pump?

A.—Well, no, I could not say that I do; it is not very great, though.

Q.—What did the Commissioners pay you for sinking that well?

A.—I was paid seven dollars a foot—and then they paid for the lining of the pump extra.

Q.—How much?

A.—That amounted to eighty dollars; I charge nothing for putting it in.

Mr. Broderick—You said you didn't see that pump or engine out there; the pump that is at the well?

A.—No, sir.

JOHN ELLIS, recalled for Mr. Hall, examined.

Mr. Hall—In planting a ground like the park, or any large ornamental ground, would you plant trees just as you expected them to stand in the future?

Answer—I never did it yet in my life.

Q.—How is that, sir?

A.—I never did such a thing yet.

Q.—How do you plant trees?

A.—Well, if I am planting trees—for instance, such as the terrace grounds of the Capitol, where the trees are intended—a few trees intended to stand permanently, we just put those in their locations; but if we are planting a grove or a wood, then it is a very different thing; then we plant them generally as thick as we can. I have planted a number of eucalyptus trees last spring—I suppose between two and three thousand—and I think we planted them about five feet apart. My object in doing so was to get protection, to prevent the winds from blowing and prevent any staking, and the object was—

Q.—I understand you then to say by planting trees closer together you save the staking?

A.—Save the staking. Another object is, that in thinning out such trees as they grow and become thick we cut them out—chop them out, and those that are chopped out produce stakes for something else, if we should require it: we get any number of stakes in that way. Such grounds as you have in the park, where there is a good deal of sand, my idea is that the thicker they are planted the better, in order to protect them from the winds in blowing the sand. I should do it in that way.

Q.—Can you understand, then, how there may have been quite a number, several hundred trees, cut down out of the plantations in the park?

A.—Very readily; it is done so everywhere in large plantations—it was done so in New York Park, Central Park, in New York. There were thousands upon thousands of trees set out. You have to plant thickly in order to protect young growing plants—in order to get them up. They screen each other and form a natural protection; whereas, if they were planted at the regular distance that you would have trees to remain, why it would be a hundred chances to one if they would ever get up a shape in the location of this park, here, where the winds are so powerful from the west.

Q.—Is there a difference in the manner of planting adopted between the planting of a large ground, like this park, and the planting of a city square, or a private ground in the city, or on the ground like the Capitol grounds?

A.—There ought to be, because the conditions are vastly different; a man in planting grounds will certainly exercise, or should exercise, his common sense. He ought to know the conditions which surround him, and conditions which plants are placed in—what they are subject to in these parts. Here, the planting certainly should be different, very different from what I should adopt in planting such a place as the Golden Gate Park.

Q.—Now, just what should that difference be in the arrangement of plants?

A.—Well the difference would be in the thickness of planting, the number of plants put upon a square acre.

Q.—Would you plant more or less trees to the acre, in the park, than in a square?

A.—I should plant a great many more, for the reason that was previously stated.

Q.—In planting a large ground like the park would you stake all the trees?

A.—No, sir.

Q.—Is such a thing ever done to your knowledge?

A.—I never saw it done but at one place; that was at the University before I went there first, and as soon as I could get to work I chopped all the stakes out.

Q.—You chopped all the stakes out?

A.—Yes, the whole of them, all over the ground; I took them all out.

Q.—Why did you do that?

A.—Well, in a great many instances the trees had overgrown the stakes; the stakes in a great many instances had become imbedded in the trees, in the gum trees and in the cypress trees; and allow me to state another fact in connection with it, that trees that are grown through being thickly planted together and thinned out afterwards, will stand without staking; gum trees will stand without staking. I have an evidence of that, I can show you to-day on the University grounds, where I have planted perhaps five or six hundred trees in a belt, there is not a stake to them; they were planted about three inches standing out of the ground, and to-day they stand sixteen and seventeen feet high, and some of them more.

Q.—Not staked?

A.—Not a stake to them.

Q.—Can you understand, then, how there might have been quite a number, some hundreds of stakes cut away from trees at the park?

A.—Undoubtedly; for the reasons stated.

Q.—Might it not have been necessary to restake some of those trees afterwards?

A.—It may, in some instances. Now, in some of the belts that I have planted at the University, the outside rows—the outside where it comes directly in contact with the wind—they will blow over, and bend; and in that instance, sometimes it is necessary to go to work and stake them, but the inside trees are all perpendicular; they don't require it.

Q.—I understand you to say, then, that in planting ground of that kind you would plant the trees out very thick; now how far apart would you plant them in the main plantation?

A.—It just depends on what they are; if they were gum trees, I would plant them in a place like yours, probably, about three feet apart—three or four.

Q.—If they were cypress and pines, how far?

A.—Well, I should plant them about four or five feet. I should want protection there as much as I possibly could get.

Q.—Would you prefer planting small or large trees?

A.—I should prefer planting small trees, always.

The Chairman—Do you mean seedlings?

A.—No, I don't mean seedlings, exactly, but I mean what we term the first season's growth.

Q.—About two-year-old trees?

A.—Well, in some instances, I should prefer, myself, if I can give my own thoughts, of catching the time and catching the plants in certain condition, and setting the plants into the ground when they are very small.

Mr. Hall—What is the object of putting them in small?

A.—The object is, there is a great deal of money saved in time and in planting; there is a great deal of plants saved by protection—one plant protecting another.

Q.—Now, would it be cheaper, or would it be more expensive, to plant an acre of ground in this way, by putting on it, we will say, fifteen thousand trees—small ones, such as you describe—to the acre, than to plant out five thousand trees of three times the size—those trees of three times the size having been raised to that size in a nursery?

A.—Well, sir, in the first instance, I would not plant the large trees at all. I would not buy such trees. I should prefer, as I said before, planting small plants; there could be a great deal saved in time; of course, that is money in the operation; much the cheapest to plant small plants and plant thickly.

Q.—To plant the small plants and plant more of them?

A.—Plant more of them, gum trees especially; because when you come to get gum trees large (and almost every man knows that to be a fact, as well as myself, that has ever had anything to do with it, that large gum trees are not worth anything), I think there is no man that has ever raised a tree but what will acknowledge that to be the fact.

Q.—That is, they are not worth anything to transport?

A.—No; and they are worth nothing in the ground; they will grow for a few years, but you have got to stake them as long as they are trees. There are trees now at the University grounds that have been planted I think ten years, and tumble down almost every strong

wind we have got. They have been grown in pots, or in some way or other, that their roots are contracted, and they coil around, and the consequence is, there is a direct tap root, and there is nothing projecting to protect the tree at all. When you take a small plant, it not only makes its tap root, but it will branch, and thus a proper balance to the tree in every shape and form; hence they grow without sloping; but these large trees planted, you can never get them to stand; you have to stake and prop them all the time. Every time the ground gets thoroughly saturated with water, it is just like a heavy pole stuck down into the ground, the wind carries it right over.

Q.—Would it be a measure of economy to raise trees to a larger size amongst the shrubbery or in protected places there in the park?

A.—I don't see how possibly it could be done; in the first instance, admitting that it could be done among trees, among seedlings, to plant in between overgrown scrub oak, as we call it, that is over there, the young stuff, in order to get the sufficiency of light, would be—understand, do you—they would be spindling; they would be worth nothing at all if they were grown, taken out, and transplanted—they would be long and spindling. They are not like plants grown in the free atmosphere, where the light surrounds the plants entirely all sides of it; a plant grown that way is very different from a plant growing between a lot of scrub oak that is out there. I don't see that you possibly could take them away and do anything with them; besides there is no advantage in it, because I mentioned things that might grow there, such as pines and eucalyptus, and such things.

CROSS-EXAMINATION.

The Chairman—What is the difference in expense between this cutting system, that you have just referred to, and staking trees—the system of planting thickly and destroying afterwards by cutting and staking?

Answer—What is the difference between planting thickly and planting large trees?

Q.—Oh, no.

A.—Let me understand the question.

Q.—You claim planting thickly offers protection; staking furnishes protection, also, if I understand rightly—that is, in producing straight, handsome trees.

A.—Yes, sir.

Q.—Now, I want to learn from you, if possible, what difference and expense between the two systems?

A.—I should think ten to one.

Q.—On which side?

A.—Well, the plants would cost three times the amount; in the first instance, it will take five times the amount of labor in planting; and the staking will take time; to drive in the stakes will cost money; and there is the string, or whatever is used, in tying them up afterward.

Q.—On which side is the balance?

A.—The balance is on the small plants.

Q.—Do you mean that it is more or less expensive to plant?

A.—I mean to say it is less expensive to plant them thickly.

Q.—To plant and cut down?

A.—To plant and cut down.

Q.—How do you figure that out, sir?

A.—It would be a question of time. It is a fact that has come to me through experience.

Q.—A stake costs so much money; there is so much labor expended in driving it into the ground?

A.—Yes.

Q.—There is so much labor expended and so much material used in attaching it to the tree. There is your stake and there is your tree started. We have your testimony here that your protection is about equal. Now, sir, you plant gum trees, care for it, you water it for two or three years, and then you destroy it?

A.—I cut it out. We have got the advantage of the tree being used in the ground and able to support itself; whereas, your tree that you stake will never support it—you have always to keep it staked.

Q.—Then a tree once staked must necessarily fall?

A.—Yes; they generally do fall. They blow down all over Oakland every day.

Q.—Then, what do you think of the policy in the managing of such a park as this?

A.—I am speaking of gum trees.

Q.—What do you think of the capacity of a man that would order stakes cut down from trees and removed from them by hundreds, leaving the trees unprotected?

A.—Well, it is just what I have done myself at the University. I have cut down hundreds and thousands.

Q.—You leave the trees to fall?

A.—I leave the trees to stand, to take their chance. Such trees never should have been planted; such trees never ought to have been put in the grounds. I consider they were worthless when they were put in, and all large trees, in my opinion, are worthless. I wouldn't plant them. They make a show for the time.

Q.—Then it is a mistake—an entire mistake—to plant any large trees in this park?

A.—Undoubtedly it is?

Q.—Or plant any trees that are expected to obtain any large growth at all?

A.—That is a very different thing.

Q.—I didn't quite understand you, then?

A.—A very different thing. We expect, when we plant young trees, small trees, we expect them—we plant them with the idea that they will grow into large ones, not that they will never grow into large trees.

Q.—But you are speaking of planting large trees while large. Is that what you refer to?

A.—I never do it.

Q.—We will suppose, for instance, that the stakes supporting any of those trees out there at the park were removed—cut down and removed, and the trees left unsupported. Do you consider that the proper management?

A.—Well it depends upon the condition in which the tree was in. A man that would do such a thing as that without having any reason for doing it certainly must be a fool.

Q.—Well, if, for instance, after the stakes had been thus removed,

a large number of these trees thus left unsupported were blown down the first storm; do you consider that good argument?

A.—I don't know unless I could see the trees and judge of the condition of things.

Q.—Well, wouldn't it have been better policy to have left the stakes there?

A.—Not if the stakes were growing into the trees; we could not have left them there.

Q.—How grow into the trees?

A.—[Illustrating]—In this way: we will suppose there is a stake on this side of this tree; that stake stands there for several years; there is no law of nature going to remove it from the tree; as it grows in its diameter the bark will surround the stake and overgrow it. That is what I mean, sir.

Q.—If there be a prevailing westerly wind in the Golden Gate Park you would drive your stakes to the westward, would you not—to the westward side?

A.—That depends entirely on circumstances. Because the wind blows from the west is no reason for placing the stake on that side. I should place the stake to the tree in the most convenient place I could set it, whether east, north, west, or south.

Q.—Regardless of the direction in which the wind was coming?

A.—Regardless entirely; but should the stakes be placed to the westward, in other words, to the windward side, and the natural leaning of the tree would be to leeward, do you imagine the bark would surround the stake?

A.—Imagine that under such conditions as that the strings would very soon cut through the bark.

Q.—The strings attaching the tree to the stake?

A.—Yes, sir.

Q.—At the University you say that upon large belts, thick belts, of trees, you have protected all your inside plantations; that was your testimony, was it not?

A.—The belts are all the same species of trees. Sometimes on the outside, where the westerly winds will happen to catch them, they will carry these trees over, but we plant a row of the trees on the outside, and keep them there till they all grow together, of course; but in the thinning out, where these trees are bent through the wind, during their early growth, they are planted so near on the outside, that we chop them out and give the place to the ones that stand behind them.

Q.—You are speaking of these in the belt, then—in the belt?

A.—Yes, sir.

Q.—Where at the University you have planted thick belts to the windward, you have not planted the trees in the interior, or the inside of the leeward, so thickly?

A.—Just as thickly; you can see them any time you like to look at them?

Q.—Couldn't it, at the park, be done this other way—planting a very heavy belt on the exposed side, and then planting your trees to leeward of that, at the proper distances?

A.—I have heard that remark from Mr. Bailey, I believe, here to-night. Now, to show the ridiculousness of that assertion; if we have a large belt of trees, we will say here [showing], you then make another belt in the front of them, or to the west of them, your trees

are all the same size. Now I will ask any man of common sense what support that outside belt is as shelter to these trees on the inside.

Q.—Well, I don't claim to be a man of common sense, and I am not answering your questions really.

A.—Well, it is a simple question; any man can see, whether a horticulturist or not; if you plant a large belt of trees here thickly, or a great distance apart, any distance you like, and plant them double, and your plants are all the same size, they will grow up together—and what shelter or protection is there?

Mr. Hall—Suppose they are all close enough to rest against each other when they grow out, is there any protection?

A.—Yes, sir; undoubtedly there is; that is where the protection comes in.

Mr. Hall—Please remark that I called Mr. Bailey as an expert on the price of gum trees.

The Chairman—He branched off on to other matters.

Q.—You laid off the grounds at the State Capitol?

A.—Yes, sir.

Q.—You laid off the trees there?

A.—I did.

Q.—Did you make the thick clumps you have just referred to there?

A.—I did, on the outside; you will find that the belts surrounding the Capitol grounds are all planted thickly in that way. My intention was, that the whole thing should grow in a solid mass together, and should represent nothing but a solid outline of foliage.

Q.—Don't you know that large numbers of trees are standing in those grounds at very respectable distances apart?

A.—I am aware of it; I intended them to do it.

Q.—There are some inconsistencies about this system of planting, that, I declare, I cannot reconcile.

A.—That is what we call a system of geometrical planting. It is a piece of geometrical work from beginning to end. There is nothing else in it but geometrical work; and if we were to alter that principle we should destroy the feature entirely.

Q.—That is the first time I ever knew geometry to be pitted against the wind.

A.—Well, it is a fact?

Q.—Your idea is, it would be preferable to plant fifteen thousand trees in an acre with a view to destroying ten thousand of them, leaving five thousand?

A.—I don't know that I said that.

Mr. Hall—As to that number I don't intend it should apply exactly to the number of trees that were planted to an acre.

The Chairman—That is just the question you asked him, and he answered it. He says it would be preferable.

A.—I understood the question as a question of principle, not as numbers.

The Chairman—Figures are figures, gentlemen; and if you choose to deliver anything you must expect to be held to them, that is all I say. I know nothing about tree-planting myself. I never planted a tree in my life.

Mr. Hall—If you will allow my question to be amended to read: As a matter of principle, would he do that?

The Chairman—Suit yourself; it is your question, and put it as you please.

A.—I answered, yes.

Q.—Now, I ask you, why?

A.—The reason why, I think I have already stated; but I will go over the ground again. It is on account of the protection, and on account of the straightness of the trees growing straight; on account of their manner in rooting—rooting horizontally, and not requiring staking.

Q.—And this, sir, with the deliberate intention in you mind to ultimately destroy two-thirds of the trees thus planted?

A.—We invariably do it, sir; it is done all over the world.

Q.—And that in preference to staking the five thousand and supporting them in that way, and protecting them in that way?

A.—Yes, sir. I think there is nothing more objectionable in the feature of landscape than to see a lot of stakes and rags tied up around plants.

Q.—Suppose you were placed in charge of the Golden Gate Park, would you proceed to plant, in the thick manner you have spoken of, all the trees you would set out there?

A.—No; not all the trees I would set out, by no means; it would depend entirely upon conditions. If I was going to plant one of those immense tracts of sand, I should certainly plant thickly together.

Q.—Those not on sand you would plant thickly together?

A.—Well, that would prevent the sand from blowing away, in a great measure, and in other conditions in other places, for the reason that I previously stated.

Q.—That you consider the true policy?

A.—That is the policy that I have adopted for a great many years.

Q.—And you are speaking now in the light of your experience?

A.—In the light of my experience—it is the plan that is adopted all over England. I spent thirty years in England before I came to America. I have spent twenty years in New York, and I have been in this State some five or six years, nearly.

Q.—And how long in Canada, did you say?

A.—I never was in Canada.

Mr. Hall—Isn't this planting thick in imitation of nature? How does a young wood start?

A.—It starts in that way. I don't think you would ever get a wood if it was not started in that way.

Q.—Was not started in what way?

A.—Thickly. I never saw a wood yet in my life but what was thickly planted, if it was naturally planted.

The Chairman—Yes; but nature don't go around with an axe, chopping them down?

A.—That is the very reason we want to plant thick, because we don't want to use the stake or the axe; but there are conditions which compel us, in certain cases, to go and plant several trees. Sometimes we are compelled to use stakes to tie them up, but I should always avoid it if I possibly could.

Mr. Broderick—You have examined the park lately, out there?

A.—Yes, sir; I have.

Q.—You noticed the way the gum trees are planted, all over the sand-hills, there?

A.—Yes, sir.
[Here the further hearing of the matter was continued until to-morrow morning at nine and a half o'clock.]

AT THE OFFICE OF THE PARK COMMISSIONERS.

SAN FRANCISCO, March 7th, 1876.

Present—Messrs. Carson, Broderick, Barber, and Raisch, of the committee.

Hon. James C. Carson in the chair.

T. S. ARNOLD, called for Mr. Hall, sworn and examined.

Mr. Hall—What is your profession, sir?

Answer—Civil engineer, sir.

Q.—How long have you followed that profession?

A.—About twenty-two years.

Q.—What position do you now hold?

A.—I am now Engineer of the Board of State Harbor Commissioners.

Q.—Are you City Engineer of Oakland?

A.—Yes, sir.

Q.—Have you had experience in the location and construction of roads?

A.—I have.

Q.—Have you visited Golden Gate Park lately?

A.—I have, sir, about two weeks ago.

Q.—At whose request?

A.—At your request?

Q.—For what purpose?

A.—For the purpose of noticing the location of the principal drive through the park.

Q.—Did you examine certain points in the construction of those drives?

A.—You called my attention, particularly, to two points, one on the southerly drive, and one on the continuation of the northerly drive, both of them being cut.

Q. [Showing map in the published report of the Park Commissioners]—Was your attention attracted to a certain cut through the point of the hill on the southerly drive, about opposite to Second Avenue?

A.—Yes, sir. I think that is the point there. [Showing.]

Q.—From there [showing] to there? [Showing on the map.]

A.—Yes, sir.

A.—Well, Mr. Arnold, did you make sufficient examination of that ground to be able to testify intelligently as engineer concerning the location of that road at that point?

A.—I think so.

Q.—What examination did you make?

A.—I passed over the ground, and examined it with a good deal of care. Not an instrumental examination, however, but such an examination, however, that I could base a pretty decided opinion upon.

Q.—Well, sir, did you particularly notice this large cut at this point? [Showing.]

A.—I noticed a cut there, and I didn't consider it an excessive cut; I noticed that particularly.

Q.—In the construction of that drive, could that cut have been avoided, so as to have preserved a reasonably graceful curvature in the alignment of the road—a reasonably easy and graceful curvature?

A.—No, sir; I don't think it could.

Q.—Why couldn't it have been avoided?

A.—Well, it would have been necessary—to have avoided that cut it would have been necessary to pass around the hill. This map is hardly in sufficient detail to have shown it. It would have been necessary to have gone around the point of the hill here, or you would have had a sharp curve here [showing], or have a very excessive fill. In order to have avoided an unnecessarily sharp curve here [showing] it would have been necessary to make an excessive filling here.

Mr. Broderick—On the borders of the lake?

A.—And my opinion also will show that so far as the expense of making that cut there is concerned, it was not very considerable, for the very reason that there was considerable filling, any how, on the east side of the cut here [showing]. It would require a certain amount of material which it would have been necessary to have borrowed, if it had not come from that cut.

Q.—Did you notice the ground southeast of the drive and east of the cut—did you notice a ridge extending all along there?

A.—Yes, sir; I did.

Q.—Could that road have been told off over that hill in somewhat in this shape [showing], and have gotten around the point of that hill without making about as much earth work as there?

A.—I think likely it would have cost more. I cannot say positively, but I think likely it would have cost fully as much, if not more.

Q.—Now, sir, in your opinion, has there been any injudicious expenditure of money in the construction of that road at that point?

A.—Taking the general location, I think not. I think, decidedly, it is a good location.

Q.—Well, sir, was your attention attracted to the point on the northern road, about opposite Nineteenth Avenue, marked on this map by the word "Tunnel"?

A.—Yes, sir.

Q.—Did you reconnoiter that ground there, right in the vicinity?

A.—I did.

Q.—With sufficient care to be able to base a professional opinion as to the location of the road?

A.—I think so.

Q.—Did you observe the approach to that wall, or that road, on each side where the road was located?

A.—I did.

Q.—Were there any advantages derived in the location of the road in that place?

A.—Do you mean over the hill, or there?

Q.—As it is now—what is to be the main drive—the road cutting through like this? [Showing on paper.]

A.—Yes, sir. The advantage was, it would give a better line and less grade—and less ascent across the ridge. There is a ridge extending across.

Q.—There is a big hill and there is the summit, and there is another hill there about the line of the road? [Showing.]

A.—Yes, sir; that ridge had of course to be crossed. This location gives better grades and better lines than the location over the ridge would.

Q.—In your opinion, could a grade and line of road have been taken over that ridge—north of this big hill here—over that ridge from the boundary of the park there [showing], with equally easy grades and lines?

A.—Not without turning the road considerably over to the south here, according to my recollection. I didn't notice that point particularly; my recollection is, though, that the grade might have been developed going over the summit [showing]—certainly not in this part of the country. [Showing.]

Q.—Then, without the ascent from the west here—say it is all up-hill country to that straight cut—wouldn't that cut have been very much cheaper than the other way?

A.—Yes, sir; necessarily, of course.

Q.—Was there any advantage derived in making that cut there, as regards material?

A.—Yes, sir; there is material in that cut that can be used advantageously in grading roads.

Q.—In grading roads?

A.—Yes, sir.

Q.—For any other purposes for road construction?

A.—Yes, sir; in macadamizing. The material, however, I wouldn't consider first-rate for macadamizing.

Q.—Would it do for the lower coat of macadam on the road?

A.—Yes, sir; it would do for the lower coat.

Q.—Now, suppose, Mr. Arnold, that all the material that has been taken out of the cutting on the east and cutting on the west there has been used in the primary layer of macadamizing on this road east of the tunnel, and west of it, has that cut, as a cut, cost anything?

A.—I think not, sir.

Q.—Wouldn't that material have to be obtained some place else, if not there?

A.—Yes, sir.

Q.—Now, supposing that there are about five or six miles more—yes, six miles more of roadway contemplated in the section of the park adjacent to this cutting, that in the construction of those six miles of roadway the remainder of the material left in this cut be taken out and used in the primary surfacing of this road so as to complete the cut, then will the cut completed have cost anything as such?

A.—I think that would depend a little on the distance which that would have to be hauled, but upon any roads in the vicinity—that is assuming that there are no places from which that rock could be obtained—

Q.—Assuming that there are not other places nearer than that?

A.—Then of course that wouldn't have cost anything as a cut.

Q.—It will simply answer the purpose of a quarry?

A.—Precisely.

Q.—Approaching that hill on either side, how was this road approached on either side—what were the features of the topography through which this road was laid?

A.—The descent from the summit to that ridge, upon both sides of the ridge is abrupt. There is a lower ridge extending in here, to the north of this ridge, for some little distance [showing], but nevertheless I should say in general terms, the descent from the summit to that ridge in both directions is pretty abrupt.

Q.—Is the ridge approached at this point by depression on each side?

A.—Yes, sir.

Q.—Is the roadway located in that depression?

A.—Yes, sir; it is.

Q.—Was it a judicious location to approach a ridge of this kind as this has been approached, in the depression, and then the cut, provided that the material in cutting was used in the road construction?

A.—Yes, sir; I think it was. You also called my attention to the fact which has struck me as bearing on that question, that is to say, that the road being located in this depression here, is to a certain extent protected from the prevailing winds in the summer time. Taking that into consideration, and also the facts as you have presented them, I think it is a judicious location.

Q.—You simply take the facts as I have presented them, and express your opinion?

A.—Yes, sir.

Q.—Then, Mr. Arnold, do you consider, as an engineer, that there has been any injudicious expenditure of money at that point, taking the facts as I have presented them?

A.—I do not, sir.

Q.—Mr. Arnold, in improving ground of this kind, where roads and walks are to be constructed all over—where uneven spaces are, in a great measure, to be filled up with turf and solid soil—in your opinion, would it be necessary to construct a system of drainage to carry off surface water all over?

A.—I should think so, where there are considerable variations in the surface of the ground—depressions, and ridges, and elevations, where water may accumulate and do mischief—I should think certainly there should be some system of drainage.

Q.—In a valley of about eight or ten acres of water-shed, in a most highly, or what is contemplated to be the most highly-cultivated grounds, would you think it necessary to have a drain through the exit of that valley?

A.—I should.

Q.—In providing a system of distributing-pipes on those grounds, Mr. Arnold, where would you locate—about where, upon what routes would you locate your main distributing-pipes?

A.—For water?

Q.—Yes, sir; generally speaking, upon what routes?

A.—Well, this is rather a difficult question to answer, not knowing the ground any more than I do.

Q.—As regards topography, for instance?

A.—I cannot answer that question without studying a little more than I should be able to do now. It would depend a great deal upon the ground that has to be irrigated.

CROSS-EXAMINATION.

The Chairman—Did you, Mr. Arnold, know anything about this ground before the improvements were put in?

Answer—No, sir; I was never on it before I went out with Mr. Hall.

Q.—And knew nothing of its original natural condition?

A.—No, sir; except I have seen a map showing a topographical survey of the ground that gives a pretty good idea of the original surface. I have never known from observation anything about it.

Q.—You are aware, I suppose, that these lakes—this one, and this one, and this one [showing on the map], these three lakes—are merely paper lakes on the map—that they are in contemplation, merely?

A.—Yes, sir.

Q.—That is, that there are sufficient natural depressions there to enable the Superintendent to construct lakes hereafter?

A.—Yes, sir.

Q.—Are you aware of the fact that there is a nursery in here at a point east of this cut, that was made at the intersection of Second Avenue with the second drive?

A.—Yes, sir; my attention was not particularly called to it, but it seems to me I have a recollection of seeing something of the kind there.

Q.—The nursery was somewhere in this neighborhood [showing]. It was transferred over here [showing]. Now considering the prevailing westerly winds, would it not have been good policy to have retained that hill in its original natural condition, as a protection to the tender plants in this nursery?

A.—Well, that nursery is located in a place where the prevailing winds would pass through that cut, and if that was necessary, to locate the nursery right there, it may have some bearing upon the question. If that is the only place the nursery can be located, and if it is in such a position that the prevailing winds would come through that cut and strike that nursery, of course that would have to be considered.

Q.—This road might have been run—might have been deflected to the south at the point of intersection with First Avenue, and then another deflection to the right around the hill, might it not?

A.—Yes, sir; that might have been done.

Q.—At no greater expense?

A.—I don't know about that; I am inclined to think—I cannot say as to that. My impression is that the expenses would have been fully as great, if not greater; for the reason that there would have been filling in here, and no cutting to supply the material.

Q.—Suppose, for instance, material could have been obtained from various other places in the vicinity, from cuts that had been made, how then?

A.—Well, I think it could be done at some expense.

Q.—You must remember, in this matter, that this lake is merely a paper lake; that there was no particular natural obstruction or objection to running this road by the deflection to the right.

A.—Certainly, I so understand it.

Q.—You made an examination of this at the same time, I presume?

A.—I did.

Q.—This cut at the northern drive and Nineteenth Avenue?

A.—Yes, sir.

Q.—In your examination of that neighborhood, did you cross the hill, or did you ascend the hill immediately north of that cut?

A.—No, I didn't, sir; I was on the hill here where this line was drawn. [Showing.]

Q.—You were only on the south side of it?

A.—That is all.

Q.—You didn't cross the cut?

A.—No, sir.

Q.—Wasn't on the hill on the other side?

A.—No, sir.

Q.—You are not able to express any opinion, then, as to the feasibility of running that road north of that hill?

A.—No, sir; I have not.

Q.—You know nothing of the elevation of the ground immediately north of the cut—north of the hill—north of the cut?

A.—No, sir; I don't know anything of that. I know there is a higher hill.

Q.—But immediately beyond that?

A.—No, sir; I didn't examine it.

Q.—Between that hill and the northern line of the park?

A.—No, sir.

Q.—You are not prepared to give us an opinion as to the feasibility and economy—still accomplishing the same results—of deflecting this road to the north and going around this hill north of the present road, and coming out here. [Showing.]

A.—No, sir; not with my present information.

Q.—You are not aware, then, that a road could be run there forty feet lower than this present temporary road, and at very light expense?

A.—No, sir; I know nothing about that, and nothing about that ground there. I made but a slight examination of it.

Mr. Hall—I will attract your attention to this topographical map.

The Chairman—Allow me to say that we have no particular proof as to the correctness of your topographical map.

Mr. Hall—It has not been called in question before, sir.

[After discussion.]

The Chairman—It can go in for what it is worth.

[After discussion.]

Mr. Broderick—If you were an engineer of the Golden Gate Park, and was making out this map, would you mark that tunnel if you intended to make a cut?

A.—No; certainly not.

Q.—A tunnel is entirely different from a cut?

A.—Yes, sir.

Mr. Broderick—Mr. Hall, you made this map, didn't you?

Mr. Hall—Yes, sir.

Mr. Broderick—Mightn't a map of that kind, or professional sketch, or design, be made, and the constructing maps be made with very material changes.

A.—Undoubtedly so.

Q.—Was ever, to your knowledge, a design or general plan of that character made, and followed out closely in construction?

A.—I don't think followed out exactly, ever.

Mr. Broderick—Now, I would like to say to this engineer—in his judgment as an engineer—you have been asked, to-day, as to whether

there was any expense in making that cut, considering the fact that the material of that cut was used in making these roads; your answer was, it was not, and you supposed that the cutting of it was recompensed by the filling in. What, in your judgment as an engineer, would be required to be done on the part of the Park Commissioners to make that tract so that pedestrians might go about the premises, and go from one side of the park to the other across that road. What character of work would have to be done to make that feasible; that is, passing from one side of the park to the other?

A.—For their safety?

Q.—For the safety of persons who may go to the top of those hills to observe the surrounding country; what would have to be done on the walls of that cut?

A.—I think it would be necessary to protect it in some way.

The Chairman—Do you know the depth of that cut?

Mr. Broderick—It is generally reported to be fifty or sixty feet.

A.—I suppose about forty, it may be fifty or sixty. It would be necessary to protect it in some way.

Q.—Suppose a person was on top of the mountain, and wishes to go from the north to the south, or being on the south side wishes to go to the north, wouldn't it be necessary for him to go around the hill, and pass around the low country, unless there is a bridge, or something of that kind, across that cut?

A.—Certainly.

Q.—Don't you think, from your experience as an engineer, it would have been advisable to keep that rocky surface in its natural condition?

A.—That is a question that relates more to engineering of that particular kind than to such engineering as I have been occupied at. It is ornamental engineering—landscape gardening. It relates more to that than to any work I have had occasion to examine.

Q.—I will ask you a question, probably, that I think you can answer more readily. If that road was started around here, laying on a little more expense than has been assumed in this way of running it—do you suppose the extra expense around this point will equal the expenditure that will be called from the funds to make this as desirable as it would be if left alone? I mean both the protection and the bridge across, and other work that will be necessary to be done on there on account of this cut?

A.—That would depend altogether upon the character of the work that would be done here in order to protect the cut.

Q.—That might cost about fifty thousand dollars, and might not cost but ten. The expense would depend altogether upon the plans?

A.—Altogether; certainly, sir.

WM. ALVORD, recalled for Mr. Hall.

Mr. Hall—You will remember that the witness Williams testified that the rock was taken from the quarry to macadamize the road near the race track; also to macadamize the street above the race track. I wish to show under what conditions it was taken.

Q.—Did you have any knowledge of rock being taken from the park quarry and used on Fulton street?

A.—Yes, sir; the President and Secretary of the Bay District Agricultural Society came to me before any official action was taken, and

asked me if they could use some of the rock from the quarry, so as to grade Fulton street, and First and Fifth Avenues. I supposed, so far as I was concerned, I said he could do so, providing they would grade Fulton street, adjoining the park.

Q.—Between what streets?

A.—Between about First and Fifth Avenues, perhaps nearly up to Sixth avenue. The object then was to—there was no entrance from the Bush street road from the First Avenue, and the streets were exceedingly muddy, more than now. You could not get through to Devisadero street, and I thought it was a very cheap way of getting a road into the park.

Mr. Hall—There is a communication, I find, on file from Mr. Covey, asking for the privilege of taking rock from the park quarry to macadamize Fifth Avenue, which, I suppose, may be submitted in evidence now.

The Chairman—It is a communication from the Bay District Fair Ground Association, dated San Francisco, August third, eighteen hundred and seventy-four, asking for permission to take rock from the quarry for the purpose of macadamizing First and Fifth Avenues, signed by H. R. Covey, Superintendent. [Reads.]

Mr. Hall—Were you cognizant of that?

A.—That was written after the conversation with me, I suppose.

Mr. Hall—Here is a reply from the Secretary of the Park Commissioners, in our copy book.

The Chairman—This is dated "August eighth. H. R. Covey, Esq." and so forth, granting request. [Reads.] "In reply to your request contained in communication to the Park Commissioners under date August third, eighteen hundred and seventy-four, I am instructed to say that permission will be granted you for the purpose specified, subject to the following conditions, to wit: *First*—Grade a track on an easy slope sixteen feet wide on the park side of the roadway on Fulton street, from the side entrance of the gateway to the crossing of Fulton street and First Avenue, and place thereon six inches of good macadam. *Second*—That all teaming done by you or your employés on this work shall pass through said First Avenue entrance and not through any of the park roadways, except of the two hundred feet of entrance drive from the gate mentioned to the quarry of the park. *Third*—That you cause the rock already blown down to be moved aside in the quarry and preserved for the park use; that you take rock from such part of the quarry as the Superintendent of the park may direct; that you dump the stripped material where required, leaving the quarry roadway and track in a good clean condition. Should you accept these terms please reply. Respectfully, your obedient servant, J. T. Fleming, Secretary."

Mr. Hall—Was that communication authorized, to your knowledge, Mr. Alvord?

A.—Yes, sir.

The Chairman—Here is a reply from H. R. Covey, Secretary of the Bay District Fair Ground Association, under date of August twenty-first, eighteen hundred and seventy-four, addressed to Mr. J. T. Fleming, Secretary, accepting the terms specified, for the permission to take such rock from the grounds of the park, and also returning thanks to the Commissioners for such permission, signed H. R. Covey. [Reads.]

Mr. Hall—To your knowledge, Mr. Alvord, were the terms of this contract or memorandum and agreement fulfilled?

A.—I think they were?

Q.—Do you know there was a roadway constructed from First Avenue to the entrance?

A.—Oh, yes, sir.

Q.—And macadamized as agreed?

A.—Yes, sir. We received the thanks of the committee at the time through the newspapers.

Q.—There is a circumstance of water being taken. The same witness testified that water had been taken from the park hydrants for use on the race-track. Has the circumstance of the water having been taken for the use of the Agricultural Society's race-track been reported to you?

A.—Yes, sir. When both of the wind-mills were blown down, they were permitted to take water on the condition that they should pay for the amount they took.

Q.—If the water company charged for it?

A.—That there would be no expense to the park.

Q.—Any further condition? Did they agree to report to the water company?

A.—Report to the water company the amount they took. There should be no expenses to the park.

Q.—Has the park suffered in any way from the taking of this water?

A.—None that I know of.

Q.—Did you consider it a trivial matter, or one of any moment?

A.—It was a very small affair, but one of very great accommodation to the public that traveled over the road.

Q.—Have you been cognizant on any occasion of my absence from the park during my employ on the work as engineer?

A.—Yes, sir; have known of your absence from time to time; none protracted; short absences occasionally.

Q.—Have you ever heard of any occasion upon which I was absent wherein I didn't report the same, or report the absence and get the sanction of the Commissioners?

A.—I don't know of any such time.

Q.—Do you know of my engagement to work for Mr. Ralston in San Mateo County?

A.—Yes, sir.

Q.—Do you know of my engagement to do some work for Mr. Coleman in Marin?

A.—I know you went over to San Rafael, Marin County; I am not certain, for Mr. Coleman.

Q.—Do you know of my going to Oakland occasionally for a short time?

A.—I knew you went over there; I didn't know for how long; a very short time.

Q.—Have you ever heard, on any occasion, of absence on my part for which I deserve censure from the Commissioners?

A.—No, sir.

Q.—Neither before or since the commencement of this investigation?

A.—No, sir.

Q.—Has it been the understanding that I, as engineer of the park—

what has been the understanding of my engagement with the Park Commissioners?

A.—That you should devote as much of the time—of course, you were engineer before I came here, and I do not know what the original Commissioners understood by it. I understood that you should attend to your duties at the park—not to neglect anything—and if you had opportunities of professional engagements outside that didn't conflict with public duties, you were to be permitted to do so. I knew Mr. Olmsted, who was engaged at one time as head gardener of the Central Park, and as civil engineer there, and he came out here and laid out the grounds of our College of California, for which we paid him about two thousand five hundred dollars, and yet he didn't lose his position in the meantime.

Q.—Did you know of the construction of the beach protection fence—the brush fence around the beach?

A.—Yes, sir.

Q.—Were you aware of its being located south of the park, for probably half its length?

A.—Certainly; yes, sir.

Q.—Was that authorized by the Commissioners?

A.—I don't know as a formal resolution was had about it. It was so understood that it should be done, and continued further as far as the material went, along to the Ocean House.

Q.—Is that a part of the public improvements?

A.—Certainly; as much as the park itself. It is more, probably, because otherwise the sand would come in from the sea-beach.

Q.—What is the contemplation of the Commissioners as regards that fence?

A.—It is to prove the great highway; to extend a brush fence along the entire length of the great highway, provided by law, when sufficient funds are derived for the purpose.

GEO. F. MAYNARD, called for Mr. Hall, sworn and examined.

Mr. Hall—What is your profession, Mr. Maynard?

Answer—I am Auditor of the city, sir.

Q.—How long have you been Auditor?

A.—Since December last.

Q.—How long have you been connected with the Auditor's office?

A.—Seven years.

Q.—In your connection with the Auditor's office has the park accounts, park vouchers, come under your notice?

A.—Altogether, sir, up to the time of my becoming Auditor. And then they have, to the extent of my indorsing of them.

Q.—From your inspection of those accounts, as they pass under your hands, what opinion have you formed of the conduct of work at the park, or the conduct of the account-keeping and rendering of bills, examination of accounts and bills, and so on?

A.—That they were particularly accurate. I have never known a department of the city where the accounts, upon the whole, have been so accurate than the park accounts, and occasion the office less trouble. All the accounts coming into that office have to be closely examined. It is not simply the auditing of the demands as they come from the Park Commissioners or the Supervisors; it is the Auditor's duty to examine the demands. I have not found, in the

number of years that I have been handling the park accounts, that I can recollect now, but one demand that was inaccurate—one number.

Q.—Is that exceptionally accurate, or careful or not?

A.—I forget the mistake; it was a mistake in computing it, amounting to a few dollars. That is the only instance where I have found an error in a park demand.

Q.—How do you regard that, the general condition of the accounts?

A.—It is evidence of great accuracy and attention upon the part of the clerks. And long before I knew you, personally, I had expressed the opinion that you must have been particularly accurate in the management of the finances of the park, so far as they came under your observation.

Q.—I asked you Mr. Maynard, to bring with you certain vouchers; have you brought them?

A.—I have them.

Q.—Will you just read the title?

A.—Do you want them in the order in which they were audited?

Q.—Perhaps it would be better; yes.

The Chairman—What are these?

A.—These are laborers' demands drawn upon the Park Fund, audited and paid out of the park money. [Hands the vouchers to the Chairman.] The number in red ink is the Auditor's number. It is similar in all respects to the ordinary demand, except that the Mayor is the executive officer of the city. In this case the law requires only the majority of the Commissioners; in the Supervisors it is before the Finance Committee—a majority of the Finance Committee.

Q.—I suppose Mr. Maynard will read the title of those, so as to go on the report; will you please read them?

A.—September ninth, eighteen hundred and seventy-four, a demand in favor of Patrick Ward, for nineteen and one and one-half days, for thirty-eight dollars and thirty-five cents; December ninth, eighteen hundred and seventy-four, Patrick Burns, nineteen and one-half days, thirty-nine dollars; January eighth, eighteen hundred and seventy-five, Patrick Burns, eighteen days, thirty-six dollars; January eighth, eighteen hundred and seventy-five, Patrick Ward, twenty-one days, forty-two dollars; February eleventh, eighteen hundred and seventy-five, Patrick Burns, nineteen and five and one-half days, thirty-nine dollars and twenty cents; February eleventh, Patrick Ward, seventeen and one-half days, thirty-four dollars and ten cents; February fourth, Patrick Ward, eleven days, twenty-two dollars; March third, eighteen hundred and seventy-five, Patrick Burns, twenty-two days, forty-four dollars; January eighth, eighteen hundred and seventy-five, Louis Enright, twenty days at one hundred and fifty dollars per month, one hundred dollars; we estimated at thirty days, that would make it right.

Mr. Carson—You are the Auditor of the city and county you say?

A.—Yes, sir.

Q.—You don't pretend to say that these papers are records in your office?

A.—Unquestionably.

Q.—Have they been paid?

A.—They have been paid; it is the only evidence that we have from the Park Fund.

Q.—Don't they belong to the treasury?

A.—No, sir; we have no check on the treasury unless we hold these; they come from the Park Commissioners, and go on the register book—this is the register number. The Treasurer pays them out of the Park Fund, they come back to the Auditor on the first of the month accompanying his report of expenditures, and we file them as evidence against this report, as with all vouchers that are paid. The only case where a demand remains in the hands of the Treasurer is under mandamus of the Court. Then it does not appear on the Auditor's book. These have been paid by the Treasurer, marked paid with the Treasurer's stamp, and then they are canceled. Every demand has to be passed over the files. If we don't preserve these vouchers, we would have no check against him. There could easily be collusion without any way of tracing it. These are just as important for the protection of the Auditor as the others are to the Treasurer. We have a record book in which every demand is recorded, with the number, name, and amount, as a check upon the Auditor.

PATRICK BURNS recalled.

Mr. Hall—I only want Mr. Burns to identify his signature on these vouchers.

Question—Is that your signature on those vouchers?

Answer—Yes, sir.

Q.—Take a look at them?

A.—I see; yes, sir, they are.

Mr. Hall—These are vouchers sworn by Patrick Burns as presented by Mr. Maynard. I see Mr. Burns does not write his own name, and consequently cannot identify his signature; Patrick Burns identifies his signature on all four of them; I wish to break in on this line of testimony here, before Mr. Maynard leaves. It is in relation to this voucher. This is the voucher drawn by Louis Enright, upon which he obtained his pay for the month during which he was absent a portion of the time. You will observe there that, as he was reported absent ten days, being one-third of the month, and his pay being one hundred and fifty dollars, he received on that voucher one hundred dollars for pay for two-thirds of the month.

The Chairman—But it don't necessarily follow, Mr. Hall, that there may not be another voucher for the other third of the month.

Mr. Hall [to Mr. Maynard]—Will you be kind enough to examine and see?

Mr. Maynard—I can very easily ascertain. You mean to see if there is another voucher for the same name for the same work. What is the number of that demand?

The Chairman—Ten thousand and fifty-two.

Mr. Maynard—Now, if I understand, you want me to ascertain whether that party drew on a second demand for any given amount for the same month?

The Chairman—I don't know that Mr. Maynard, as Auditor, can keep track of all the employés. I don't think that he could satisfy this committee or himself that this other fifty dollars was not paid.

Mr. Maynard—I could satisfy myself if he has ever drawn fifty dollars in his own name. I could not satisfy myself if he has drawn in a fictitious name, of course. All you want me to tell is whether he appears upon the Auditor's books?

Mr. Hall—Yes; I would like to have that appear, Mr. Maynard.

My object in all this is, I want it to be in the record that for the time marked on these other pay-rolls he was not credited on the other pay-rolls, and that the demand drawn on the Park Fund corresponds to the amount on the park pay-rolls. Referring to the pay-rolls, I want to say under that head, of November thirtieth, eighteen hundred and seventy-four, that Patrick Burns is credited with seven and a half hours work for myself on the private contract; under the head of November thirtieth, eighteen hundred and seventy-four, on the park pay-roll, Patrick Burns is not credited with any time; under the head of December, eighteen hundred and seventy-four, on the pay-roll of the private contract for myself, Patrick Burns is credited on the first, with nine hours work; on the second, with nine hours work; on the third, with nine hours work; on the fourth, with nine hours work; on the fifth, with four and a half hours work; on the sixth, being Sunday, no work; on the seventh, nine hours work; on the eighth, nine hours work; on the park pay-roll for the same month, December, eighteen hundred and seventy-four, Patrick Burns is not credited with any time on the first day of the month, nor the second day, nor the third, nor the fourth, nor fifth, nor the sixth, nor the seventh, nor the eighth day.

Mr. Broderick—He is credited with every other day?

Mr. Hall—He is credited with every other day in the month.

Mr. Broderick—Sundays included?

Mr. Hall—Not Sundays included. No, he is not credited with every other day in the month. He misses two days beyond here; there is evidently a holiday here.

Mr. Broderick—He is credited with eighteen days?

Mr. Hall—He is credited with eighteen days.

Mr. Carson—Eighteen days on the park pay-roll?

Mr. Hall—He is credited on the private pay-roll with six days, and then [showing pay-paper] this is the pay-roll on the private contract of W. H. Hall for the first repair, as it is called. On that pay-roll Patrick Burns has identified his signature, as on the other. Under the head of January, eighteen hundred and seventy-five, Patrick Burns is credited with three hours work a day, being nine hours on the twenty-fifth; on the twenty-sixth he is credited with three hours work; on the twenty-seventh, without any work; on the twenty-eighth, with four hours work; on the twenty-ninth, without any work; on the thirtieth, four and a half hours work; making one and five-ninths of a days' work in January. On the park pay-roll in January, eighteen hundred and seventy-five, on the twenty-fifth, Patrick Burns is credited with six hours work, making, with this three hours, one day. On the twenty-seventh he is credited with nine hours work—there being no work credited on the private pay-roll; on the twenty-eighth he is credited with five hours work—there being four hours on the private pay-roll, making nine hours for the day; on the twenty-ninth he is credited with nine hours work—there being no credit on this private pay-roll; on the thirtieth he is credited with four and a half hours work—there being four and a half hours on the private pay-roll, making in all, one day on the pay-roll, under the private contract. Under the head of February, on the same pay-roll, upon the park pay-roll on the first day of the month is no credit; on the second day of the month he is credited with nine hours work; thereafter without any work. On the park pay-roll for February, eighteen hundred and seventy-five, corresponding months, he is

credited with nine hours work; on the second he is not credited with any work—there being nine hours here [showing] and the remainder he is credited.

Mr. Broderick—That is February?

Mr. Hall—February.

The Chairman—Will you swear these are the same pay-rolls that were submitted to the committee in the Board of Supervisors' room?

Mr. Hall—I will, sir.

The Chairman—Do you know that of your own personal knowledge?

Mr. Hall—I know that of my own personal knowledge.

The Chairman—There has been no change made since then?

Mr. Hall—There has been no change made since then.

The Chairman—There has been no change made since that time?

Mr. Hall—There has been no change made since that time.

The Chairman—Have they been in your care all that time?

Mr. Hall—No, sir; they have been in the care of the Secretary.

Q.—How do you know?

Mr. Hall—Then I cannot swear that I know of my own knowledge. I suppose I could get the Secretary to swear to it. Well, there has been no change made in them to my knowledge.

PATRICK BURNS, recalled on behalf of Mr. Hall.

Mr. Hall—Do you identify your signature on these pay-rolls?

Answer—Yes, sir.

Q.—You have identified that signature on the park vouchers?

A.—Yes, sir; I do.

Mr. Hall—I would like to have the committee satisfy themselves that the sum total of the time and pay called for on these pay-rolls in each month, corresponds with the sum total or not with the amount for which the vouchers were drawn that month.

The Chairman—The Chair will say, Mr. Hall, the committee may do that with more ease from the memorandum the reporter has made in his notes.

Mr. Hall—The reporter has not made in his notes the full amount of time in these payments.

The Chairman—Well, if you can make it any clearer, well, go ahead.

Mr. Hall—For the month of November, eighteen hundred and seventy-four, Patrick Burns is credited on the park pay-rolls for nineteen days four and a half hours, the rate of his pay being two dollars a day, the amount being thirty-nine dollars. I wish to call the attention to one thing here: the dates that Mr. Maynard read as the dates of those vouchers were the dates at which they were audited.

Mr. Broderick—We understand that the November work is paid for in December, of course; and a voucher of December seventh pays for that work; thirty-nine dollars—that is correct; that is just what the voucher says.

Mr. Hall—Now, I call the attention of the committee to this fact, also, that the time Patrick Burns is credited with through this month is about the same as all the other men on the roll were paid; the committee can then satisfy themselves on that point. December eighteen hundred and seventy-four, Patrick Burns' full

time on the park pay-roll is eighteen days; the amount called for—two dollars a day—is thirty-six dollars.

Mr. Broderick—That is right; the voucher says that; that voucher was paid in January.

Mr. Hall—January, eighteen hundred and seventy-five, park pay-roll—Patrick Burns, nineteen days five and a half hours, two dollars a day, thirty-nine dollars and twenty cents. Is that right, Mr. Broderick?

Mr. Broderick—That is just as the voucher is.

Mr. Hall—February, eighteen hundred and seventy-five, park pay-roll—Burns, twenty-two days at two dollars, forty-four dollars.

Mr. Broderick—That is right.

Mr. Hall [To the witness]—Now, Patrick Burns, you have identified your signature on these pay-rolls on the vouchers that you drew, and you have also testified that you received all the money that was due you for it out there.

A.—Yes, sir.

Q.—You did not lose any money by it?

A.—No, sir.

Q.—You got all the money?

A.—Yes, sir; excepting that I might lose a dollar and a half—I don't know whether I lost that or not. We were cutting brush for the fence; you were up on the hill and you called us up. We went up and you gave us the vouchers there for the month following, and I told you that I was a day short, and you told the Captain to look to the book. The Captain looked to the book, and he said I was absent on the second day of the month. No, sir, said I, I am pretty sure I was not off.

Q.—What month was that?

A.—I cannot tell you, sir.

Q.—It was the second day of the month?

A.—I don't know what day it was; he told me that I was absent the second day. Then I went out to the man who was keeping our time, and I said "How is it, don't you know I worked the second day of the month?" Well, he pulled out his book and said, "Yes, it is in there." Then the Captain told me to go to Hendricks—

Mr. Hall [Interrupting]—I really don't think this has anything to do with it?

Mr. Broderick—You asked him if he got all his money; he says he might have lost a dollar and a half or two dollars.

Mr. Hall—No; he is not certain of it.

A.—I beg your pardon, Mr. Hall, I went out to Mr. Shortman's, "How is it," I said, "that I was cut back?" Said he, "How much money did you get on the pay before?" I told him that I got five dollars and a half from Mr. Hall in the park office, and I told him—told him then what I got in the voucher. Then said he, "You were a dollar paid over the time." "And how is that," said I. "Go," said he, "Hendricks and Mr. Hall can settle that." That is the answer he made.

Q.—What did he mean by that—what bearing had that on the case?

A.—I don't know, sir; I am on my oath; that is what I have to tell.

Mr. Broderick—You testified some time ago that Mr. Hall gave you five dollars and a half for your services?

A.—Yes, sir.

Q.—Have you been able to find out anything different—where did you receive that five dollars and a half.

A.—In the park office, sir.

Q.—What sort of money did you get?

A.—I got it in silver, sir.

Q.—Where did you receive the other money—the fourteen dollars?

A.—In the Treasurer's office; no, I never of the first—not including any, only the last time about the outside contract. I quite dis-recollect all about the first time; it was never mentioned or spoken about.

Q.—You were asked how much time you worked for me on the outside work—you were asked as to the entire time?

A.—No, sir.

Q.—Yes, you were; you were asked the entire time you worked for me—that you worked for Mr. Hall out of the park, and your reply was nine or ten, or may be eleven days, and you could not tell exactly which.

A.—Well, I said at the last contract with Mr. Hall that I worked between ten and twelve days, and I can show you the paper of the same to-day; I cannot show it to you now, but if you want to see it I will let you see it. That was my evidence, and Mr. Smyth knows the same, that I told him the same in his office, that I never spoke of the first time at all; I never brought him in question, only the last time that I worked there I worked ten or twelve days; that was the evidence, just as well as if I was there now.

Q.—The last time that you worked?

A.—The last time that I worked under the outside contract.

Mr. Hall—We will have to appeal to the official report of the testimony.

To the Reporter—I will ask to bring a copy of Patrick Burns' evidence.

To the witness—You say you did not receive any money from me excepting the five dollars and a half?

A.—I did the first time. The first time we were sowing the seed at first; but I told you I disreclected what you gave me, or how many days I spent. I never mentioned that in my evidence here, nor in the treasury there. I never mentioned the first time; I only mentioned the last time we were sowing seed. I spoke of it then. I worked ten or twelve days.

Mr. Broderick—For which you got five dollars and a half from Mr. Hall?

A.—I received five dollars and a half from Mr. Hall, and then I said I got full pay, and a half a day over the time, in which the day was from my following—

Q.—You got paid for all the time you worked?

A.—I got paid for every day I worked.

Mr. Hall—Very good; we will have to call you again, then.

Mr. Broderick—Mr. Burns, you have testified to this signature here. [Showing.] You testified the other day and you testified now, and you testify yet that is the signature on the voucher?

A.—I did.

The Chairman—It don't make much difference to you, Mr. Burns, what you sign, so long as you get your money.

A.—Yes, sir; not a bit.

Q.—You had just as soon sign a receipt for twenty-five dollars as for five and a half?

A.—Yes, sir; just as soon.

Mr. Broderick—That is, providing you were told it was an acknowledgment of this money?

A.—Yes, sir; I could know how many days I worked in a month.

Q.—Might not men sign pay-rolls without knowing what is represented there?

A.—No; never looked.

[After discussion.]

The Witness—Now, I would like to take the voucher. When I would look at the voucher I would know how many dollars I would get; but when I was short a day I made it known to both of them.

The Chairman—And was it credited?

A.—No, sir; I never got it since.

E. L. SULLIVAN recalled for Mr. Hall.

Mr. Hall—Did you know of rock being taken from the park quarry to macadamize a portion of Fulton street, between the Agricultural Society's ground and the park race-track?

Answer—I knew of it afterwards. I was East at the time when it occurred.

The Chairman—And between First and Fifth Avenue?

A.—Yes, sir.

Mr. Hall—Has the circumstance of water being taken from the park hydrants been reported to you?

A.—That was also while I was away. I heard of it.

Q.—Both circumstances met with your approval?

A.—They did.

Q.—How were they considered?

A.—Considered rather beneficial to the park than otherwise.

Q.—Were you cognizant of the occasional absences, on my part, from the park?

A.—Yes, sir.

Q.—Have you heard of any occasion, before or since the commencement of this investigation, where I was absent without authority, or without reporting?

A.—No, sir.

Q.—What has been the understanding of my engagement with the Park Commissioners?

A.—Up to the time your salary was raised, it was understood that if you had an opportunity for private work at outside that didn't interfere, in our judgment, with the park management, that you should have the privilege of attending to it. I believe it was so understood in the East with all engineers.

Q.—Well, since the time my salary was raised?

A.—Well, my impression is, that at the time the salary was raised, we were to have your exclusive time; but probably if you were away you undoubtedly asked permission, and you got it; but the object of the salary being raised, my impression was, we were to have your exclusive attention.

Q.—If I were away and reported the circumstance to you, and it met with no objection, then I am not to be censured for any absence?

A.—Oh, no.

Q.—Have you ever heard of my absence, or my ever doing work without authority, or reporting?

A.—No, sir.

Q.—What was the understanding of the beach protection-fence below the line of the park?

A.—Well, it was of course done for the benefit of the park?

Q.—What is the intention regarding it?

A.—It is the intention to make the great highway eventually, and to macadamize the road in the mean time. This brush fence will allow the sand to pile up, and it will take three, or four, or five years.

Q.—Was it regarded as a portion of the permanent improvements?

A.—It is a portion of the park, I believe, and under the charge of the Park Commissioners.

Q.—Do you own any property within the three tiers of blocks which I have contracted to reclaim south of the park?

A.—No; I have no interest in it at all.

Q.—Do you now own property upon or adjacent to the line of any street, to the opening of which the legal or any appropriation of park moneys have been applied under the law?

A.—I don't.

Q.—Did you own at any time?

A.—Never.

Q.—Has any of your property been benefited by opening such streets?

A.—No, sir; not that I know of?

Q.—Do you, or did you about a year ago, own property on Sixth Avenue, between the northern line of the park and the Point Lobos road?

A.—Yes, sir.

Q.—Was there an application from the property-owners of the property on the line of that street for the benefit of aid from the Park Fund to open it?

A.—There was.

Q.—Was that application acted favorably upon?

A.—No, sir.

Q.—Why wasn't it?

The Witness—Mr. Hall is evidently doing this for my benefit, and I thank him, but I almost wish he would not. The reason why the application was not favorably reported upon was because that I owned the property, and it might be thought that I did it for my own private purposes.

Q.—Do you remember the circumstances of rock being taken from the Buena Vista Park quarry by B. Kenny, a contractor, to macadamize certain streets in the neighborhood of the entrance to the avenue?

A.—Yes, sir.

Q. [A paper shown]—Is that your signature?

A.—It is simply a memorandum of agreement and conditions upon which Mr. Kenny took the rock from the quarry. It was in evidence that the contractor was seen taking rock from the quarry. It was not stated for what purpose, or under what conditions, and I want to show under what conditions he took it.

The Chairman—It is an agreement between B. Kenny and the Park Commissioners, dated May twenty-third, eighteen hundred and

seventy-three. I will just state the substance in general: Permission is granted Kenny to take ten thousand cart or five thousand wagon loads of rock from Buena Vista Park, and in consideration of that permission, Kenny agrees to deliver upon the road, in the avenues leading to the park, between Baker and Ashbury streets, for the use of the park, one load of said rock, broken to proper size—each ten loads taken for his own use—for the first five thousand cart or twenty-five hundred wagon loads—such proportion of rock taken to be delivered each day that the hauling is being done, and subject to the charges of the Superintendent of the park. Further consideration: for the permission granted Kenny agrees to fill with sand a small hole washed out—the large avenue drive on Fell street, near Baker street, without fee—on the park for all extra filling required in Fell street, near the crossing of Cole street, occasioned by the removal of clay and soil, taken under the direction of the Commissioners. It is signed by Kenny, and by Messrs. Sullivan, McDermot, and Butterworth, Park Commissioners.

Mr. Hall [To the witness]—Do you remember a circumstance of the Park Commissioners purchasing some trees of Mr. Kelsey, of Oakland?

A.—Yes, sir; I went over then.

Q.—Who went also?

A.—Mr. McDermot.

Q.—Upon whose motion was it these trees were purchased?

The Chairman—The record is the best evidence of that.

A.—I think it was Mr. McDermot; he lived over there at that time himself.

Mr. Hall—I have a record of January thirtieth, eighteen hundred and seventy-two. On motion of Mr. McDermot, it was ordered that the offer of W. L. Kelsey, to furnish ten thousand trees of different varieties, on the park grounds, at twenty-five cents each, be accepted.

Recess till half-past one.

AFTERNOON SESSION.

Quorum present.

Mr. Hall—I wish to show here simply the circumstances of the rendering and the ordering of Mr. Kenny's bills for extra work. I believe Mr. J. J. Brady was the assignee of Mr. Kenny, or Mr. Kenny assigned contracts and agreements that he had with the Park Commissioners; some of them at least, and I think the most of them, to Mr. Brady before they were completed. Mr. Brady having stated that he had paid, or knew of five hundred dollars having been paid to some one for the auditing of the extra work bill, I wish to show the conditions of those bills. Here is the first extra work bill presented by Mr. Kenny. It is itemized. The amount at the foot of it I find to be one thousand eight hundred and eighty-seven dollars and fifty cents.

Mr. Broderick—All the documents refer to Kenny?

Mr. Hall—To Mr. Kenny, and Brady as connected with Kenny. Kenny is dead.

The Chairman—I do not find Kenny's name on this at all.

Mr. Hall—It is the bill that was rendered, sir; that was handed in.

The Chairman—The name does not appear on it at all.

Mr. Hall—Well, it is the bill as copied out and audited by myself.

The items may be compared with that original. Here is a voucher, a paid voucher, that was drawn at the time when the Park Commissioners had their own treasury and the vouchers were rendered to this office. The Park Fund was not in the Auditor's office at that time, so that this office now holds these vouchers. This is the park voucher upon which Mr. Kenny was paid an extra work bill. It is dated December nineteenth, eighteen hundred and seventy-one.

The Chairman—This is in your handwriting, isn't it; [showing] the whole of it?

Mr. Hall—No, sir; the vouchers are not; that [showing] is my handwriting.

The Chairman—All this? [Showing.]

Mr. Hall—Yes, sir.

The Chairman—Was there any action of the Board upon this matter?

Mr. Hall—Yes, sir; the bill was referred to me.

The Chairman—Let us see a memorandum of the receipt of the bill for the original amount as claimed, and then the reception of your report or reference of the bill to you, and the reception of your report by the Commissioners and their action upon it—something of that kind.

Mr. Hall [After examining]—I find, on December eighth, eighteen hundred and seventy-one, on motion of Mr. Connolly, the bill of Kenny for extra work in grading the avenue was referred to Commissioner McDermot and Superintendent Hall, to examine and report the amount due.

The Chairman—How many bills for extra work did Kenny put in?

A.—There were two bills for extra work in that place; then there were several bills here.

The Chairman—One moment; does that refer to that bill or to the other one?

Mr. Hall—I apprehend it refers to that bill.

The Chairman—Dated December nineteenth?

Mr. Hall—It runs back to December eighth—of a bill of December eighth. Yes, sir; I don't see the reference of any other bill at that time and succeeding.

The Chairman—Was there any difficulty as to the amount of the other bill.

Mr. Hall—Yes, sir; that is, some time succeeding this.

The Chairman—I wish you would find that.

Mr. Hall—Then there is a bill for extra work in October, eighteen hundred and seventy-two.

Mr. Raisch—That is for one thousand seven hundred and forty dollars.

Mr. Hall—No, sir; four hundred and fifty-two dollars and seven cents is what is paid?

The Chairman—On those you say you reduced his labor this amount of money? We do not know whether the bill is right or wrong.

[After discussion.]

Mr. Hall—There is a bill audited October, eighteen hundred and seventy-two, or after that; I intend to take that up after this one. Here is a bill here, I don't know what the amount of it is. There is a bill they presented here; of course, you understand I am not responsible for the condition he puts in his bills.

Mr. Raish—What about that bill you paid one thousand seven hundred and forty dollars and sixty cents?

Mr. Hall—There is no such amount I can find.

Mr. Raish—I saw it here a while ago.

Mr. Hall—I am unable to find it.

Mr. Broderick—Those two bills don't agree.

Mr. Hall—I do not pretend to say that they do agree exactly. There is some of the items I have changed; my instructions were to have the time kept for the extra work. There was a man there to keep it. The amount of this bill, you see, has been reduced a great deal.

Mr. Broderick—What is that claim on?

Mr. Hall—Extra macadamizing.

[After discussion.]

Mr. Broderick—Did Mr. Kenny make an application for one thousand eight hundred and eighty-seven dollars, after you reduced it for him?

Mr. Hall—He did.

Mr. Broderick—He made it after you reduced it.

Mr. Hall—Made it at the time Kenny was shown the bill, as audited, before it was paid, and I know there was a great fuss made about it.

Mr. Broderick—You allowed him eight hundred dollars out of the one thousand eight hundred and eighty-seven dollars.

Mr. Hall—I allowed him eight hundred dollars out of the eighteen hundred and eighty-seven dollars.

Mr. Broderick—Did he make application for the one thousand and eighty-seven dollars afterwards?

Mr. Hall—I don't know whether he made application afterwards or not.

[Discussion.]

J. T. FLEMING, recalled by the committee, examined.

Mr. Carson—Turn to your book and inform the committee the date of the death of Mr. Connolly, the former Commissioner?

Answer—I don't think it is stated what time he died, sir.

Q.—Well, when it was reported to the Board?

A.—All the record I can find is under date of March fourteenth, eighteen hundred and seventy-two: "On motion, Mr. McDermot nominated Barton Alexander as a member of the Board of Park Commissioners for the vacancy caused by the death of D. W. Connolly. There being no other nominations, on motion of Mr. McDermot, the Secretary was instructed to cast the ballots of the members present in favor of the election of General Alexander. * * * * Whereupon General Alexander was duly declared member of the Park Commissioners, and the Secretary was instructed to duly notify him of his election and also inform the Governor."

Q.—See what was the last meeting Colonel Connolly attended prior to that?

A.—The last meeting he attended was January twelfth, eighteen hundred and seventy-two.

Q.—I suppose it was between January and March, eighteen hundred and seventy-two, that he died?

A.—Yes, sir.

Mr. Hall—I think Colonel Connolly died in the month of April or May.

The Chairman—That could hardly be, as the entry is, that has just been read.

[After discussion.]

Mr. Carson [to Fleming]—On behalf of the committee, I ask you now, sir, to prepare and forward to the committee, a certified statement under oath, explanatory of this item in Exhibit C of the last report of the Commissioners, viz: under the name of disbursements for park improvements three hundred and sixty-six thousand two hundred and thirty-one dollars and thirty-five cents. We desire to have in that statement the details showing how much was expended in road building, how much in grading, cutting, filling, macadamizing, and so on, if your books disclose these facts. How much have been expended in purchasing trees, plants, flowers, and so forth, and if it be the fact that some portion of this three hundred and odd thousand dollars was expended for labor, so specify?

A.—It is all labor, sir; or, at least, it includes labor, too.

Q.—Well, show that, also?

A.—It includes labor and all purchases made by the Board of Park Commissioners.

Q.—Well, you understand just what the committee wants now?

A.—Yes, sir.

Mr. Hall—The majority of that expenditure was for labor, and that labor was spent on road construction and grading, and all varieties of work that had been done there. Now, the voucher is drawn at the end of the month for the full amount of the men's pay; he may have worked at one, or he may have worked at half a dozen of these different works; he may have worked during the month at road building and at grading, and at various different things, so that it would be impossible, I should think, for Mr. Fleming to prepare a statement that would be satisfactory to you.

The Chairman—Well, if I understood you correctly, Mr. Hall, and if I understand your last report, you are able to specify just what work every man has been engaged in, and how long?

Mr. Hall—No, sir.

The Chairman—You have tabular statements and reports?

Mr. Hall—No, sir.

The Chairman—That appears to be the principal labor of some of the men out at the park here—preparing their manifold reports.

Mr. Hall—No, sir.

The Chairman—I think we ought to be able to reap some benefit from them?

Mr. Hall—Excuse me, but I say in my last report there, that a system has been devised of making daily reports. I don't say it has extended back over all this period. I state positively, though, that for the last seven months, since my assistant was discharged and I took more particular personal charge there myself, that I have kept such an account; that I can tell within a very small percentage what each man has done during that period. Before then for a couple of years—for probably three years before then—I could tell, with a considerable degree of accuracy, too, by taking a great deal of trouble and going all over the journals previous to that. Still, the first year or year and a half the work was going on, I apprehended—well, about all the work was going on I apprehended—well, about all the work was then in grading—in road-building—so there would not be much difficulty about that; but there was no very correct account kept of what each man was doing that day. We have a journal

which states how many men were employed and what work was going on, and the time-book shows these things. Now, the system that has been devised and gradually perfected as the work has gone along, has been the outgrowth of experience, and in fact takes less time now than it did by the method of keeping the journal which we had two years previous to this last six or seven months, and there is nobody engaged in keeping such accounts at all. The park-keeper makes up his account in the evening, of his men, and I make up my account, not always in the evening, but every day or two, and the gardener make up his account. It is on one side of a sheet of paper, just what a man has been doing each day. It take a sheet of paper each day. So, from those accounts, just as far back as they go, we can make up this account. Previous to that the journal simply stated so many men on such work, and so many men or so many carts with teams on such other work, which is not quite so correct a method as now.

The Chairman—Well, Mr. Fleming, in this statement we desire the amounts paid to gardeners for instance, and the amounts paid to different classes of employes?

Mr. Hall—Yes; he can do that pretty close.

The Chairman—Very well; we desire that Mr. Fleming take as early a day as possible?

Mr. Fleming—I understand these accounts were opened by Mr. Moulder, and I have continued them on.

The Chairman—How long was Mr. Moulder Secretary?

Mr. Fleming—About a year, I think.

Mr. Hall—Longer than that.

The Chairman—You were his immediate successor?

Mr. Fleming—Yes, sir.

The Chairman—And have continued as Secretary ever since?

Mr. Fleming—Yes, sir.

The Chairman—The committee are at your service, Mr. Hall?

Mr. Hall—I have no further evidence of importance to introduce at present. I will be in Sacramento if you don't come back here. You say you have to make your report on the thirteenth.

Mr. Broderick—We have about six or seven days more, I believe.

Mr. Hall—Well, I will be in Sacramento three or four days from now, and in the meantime, probably I will communicate with you. [Discussion.]

Mr. Hall—I want you to recollect, gentlemen, if there is other evidence introduced to my discredit three or four days from now, I shall have a very short time to come back to San Francisco, and refute it.

The Chairman—If that should be the condition of things, I don't think it will. I think I can say for the committee we will ask further time from the House, in order to enable you to present any testimony you might desire in that direction.

[Discussion.]

Mr. Carson—No further testimony?

Mr. Hall—Not at present.

The Chairman—Do you claim to be content so far as the suggestion presented to the committee yesterday morning is concerned, as to witnesses you desire to examine?

Mr. Hall—Let me see that communication, please. [Takes the communication.] In answering this may I refer to the paper itself?

The Chairman—Yes, you may refer to that.

Mr. Hall—So far as establishing the correctness of my professional judgment is concerned, on a point where it has been called in question, I can't say that I am content, for the reason I supposed that the evidence of professional gentlemen of considerable standing, who had been on the ground there and made an examination of it, would be accepted as worth something. I was going to say this, simply, that from those gentlemen I shall expect to introduce some further evidence of more definite character.

The Chairman—You had all the gentlemen here of that class you desired.

Mr. Hall—Yes, but these gentlemen I desire to recall before the committee, or the evidence of these gentlemen.

The Chairman—You will permit the Chair to say that the committee drew to a marked distinction between an engineer who had examined the ground before these improvements were made, and one who had examined it after these improvements were made, and then gave his opinion, and the gentleman that you produced here yesterday—some one who had never been in the park before except as a mere visitor, and was not able, save from the information that you would furnish there, to draw any comparison between the ground as it originally stood and the condition it is now in since your improvements.

Mr. Hall—Well, as to that point, there is one person whose evidence I think I can get—an engineer who was engaged on our topographical survey out there as my assistant. His testimony I can produce on that point.

The Chairman—Can you get him now?

Mr. Hall—No, sir; I can't get him now.

The Chairman—What is his name?

Mr. Hall—Edward York.

The Chairman—Where is he?

Mr. Hall—He is here in town.

The Chairman—Have you any further testimony to produce?

Mr. Hall—At present I have not, sir.

The Chairman—I do this openly for the purpose of preventing any further reflections, such as have been cast upon this committee by the press, emanating from but one source, to the effect that this committee had not afforded you a fair opportunity to justify yourself.

Mr. Hall—Any reflections that I cast upon this committee, sir, or any reflections that I intended to cast on this committee, have been misunderstood. I did intend to cast reflections, and very strong, too, on the former management of this committee. I simply stated to the public, however, that as yet—at that time—I had not had the opportunity of introducing the evidence, and that the committee had said that I should have the opportunity; but I blamed the press in saying that. In the meantime I was judged through the columns of the press with the sanction of some member of the committee. I could not have meant any one else than a former member of the committee. I never intended to reflect on any member of this committee.

Mr. Broderick—You were told, were you not, by me, Saturday, that we proposed to give you our services during our stay down here?

Mr. Hall—Yes, sir.

Mr. Broderick—That our visit down here was for your special benefit?

Mr. Hall—Yes, sir; I am satisfied with it so far as you have been able to get any evidence in, but for the future, why, I suppose, I shall have the same opportunity.

[Discussion.]

WM. H. HALL, recalled by the committee and examined.

The Chairman—Now, Mr. Hall, I desire to ask you a question: Did you, directly or indirectly, have any hand or part in the attempt that was made to obtain a committee of the Senate to investigate the affairs of the Golden Gate Park?

Answer—The Park Commissioners sent a communication to the delegation in the Senate, from San Francisco, asking the delegation to favor the appointment of a committee to investigate the affairs of the Golden Gate Park. The reason it was done was this: They supposed that whatever legislation would be undertaken connected with the park would have to come before the Senate, of course; they, therefore, in asking this appointment of a committee, desired that the Senate should be informed through such committee. They did it, I can't say at my request, but I heard it talked about.

Q.—Did you participate at all in the effort that was made in the Assembly, and was successful, in ordering this committee to return to the House all the testimony that had been taken up to that time, to be printed, at the same time that this committee was ordered to return to San Francisco to resume its investigations, with a view, perhaps, to have the committee come down here without the benefit of the testimony they had taken before?

A.—I knew nothing of the introduction of that resolution. I take that back that I knew nothing of the introduction of that resolution. I knew nothing of any provision in the resolution that required the testimony to be left there; I didn't know that the resolution was to be introduced. All I knew of the movement was that a friend of mine in the Assembly, being in San Francisco a few days, or may be a week before that resolution was introduced, asked me how this matter was coming on. I told him I was waiting, anxious for this committee to come back, and he asked me if they were coming back. I said I supposed so, of course, as the time was growing very short. He said: "Well, I will try to get them back," or something of that kind. "I will see some of them, and try to get them to come back." The next I saw was the introduction of this resolution. I never asked for it; was surprised when I saw it. I don't know the gentleman who introduced it, and I asked this friend of mine to try and speak to some members of the committee, and learn whether they were coming back, or when they were coming back, or tell them it was my desire they should come back. I was surprised, sir, when I saw that resolution in the paper, although I must say it gratified me to see a definite intimation that the committee would return. In this connection, however, Mr. Carson, I will say that I don't know of my own knowledge whether any friends of mine had that resolution introduced or not. I don't know whether they did or not. I have thought, perhaps, they did, and I wrote up there, and never received any reply on that.

Here the committee, on motion of Mr. Raisch, adjourned to meet at the call of the Chairman.

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MONDAY, March 13th, 1876.

Present—Messrs. Carson, Barber, Raisch, and Broderick.

Mr. Carson—I desire to state, gentlemen of the committee, that on Saturday last I placed in the hands of the Sergeant-at-Arms of the Assembly subpoenas for John Doyle, J. J. Brady, and T. F. Reardon, and that this afternoon at four o'clock the Sergeant-at-Arms presented a dispatch, received from his Assistant, who is in San Francisco, to the effect that Messrs. Doyle and Reardon had been subpoenaed by him. I presume they were subpoenaed too late for this morning's train, and will probably be here this evening. It is impossible for them to get here before.

I see Mr. Fleming and Mr. Hall present this evening. Mr. Fleming was instructed, gentlemen of the committee, in San Francisco, to present to us a statement showing the disposition of the amount of three hundred and sixty-six thousand two hundred and thirty-one dollars and thirty-five cents, that is stated in the report of the Park Commissioners as expended for park improvements. Mr. Fleming is now here, and I now ask him to present such statement, if he has it with him.

J. T. FLEMING recalled by the committee and examined.

Mr. Carson—Mr. Fleming, at the last meeting of the committee, in San Francisco, you were instructed to prepare a statement showing the details of the expenditure of three hundred and sixty-six thousand two hundred and thirty-one dollars and thirty-five cents, set down as park improvements. Is this the statement that you present?

A.—I understood from the Commissioners before the committee, under oath, that they could, sir; that that was correct and certified to before a Notary Public in the examination.

Q.—That is not charged, because any member of the committee has power to administer an oath.

Witness—That is what I understand.

Mr. Carson read the following:

SAN FRANCISCO, March 11th, 1876.

Hon. Chairman Park Investigating Committee, etc.:

SIR: In compliance with your instructions, I have prepared a statement, as below, of subdivision of park improvement account into amounts expended, respectively, for labor and material. To go further into the subject, and classify the material account so as to show how much was expended for seed and other classes of material, and the labor account into the several classes of labor, would require several weeks, perhaps a month of time. I hope the annexed statement, prepared in detail, so far as the time permitted since your instruction was given, will suffice:

<i>Park Improvement Account.</i>	
Expended for labor	\$294,544 90
Material	71,686 45
Total	\$366,231 35

Respectfully, your obedient servant,

J. T. FLEMING, Secretary.

Mr. Carson—Gentlemen of the committee, I desire simply to call attention to one fact: that on last Tuesday this instruction was given to the Secretary of the Park Association.

Mr. Barber—I do not think we can arrive at anything in regard to this; we are none the wiser as to what has become of the money.

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The Witness—I will state I brought the books up. It was—

Mr. Carson [Interrupting]—That is not the statement this committee ordered you to prepare. You had from Tuesday last until Sunday night last. This is now Monday.

A.—I worked at the statement ever since.

Q.—With only this result?

A.—With only this result.

Q.—Is there any further information you desire to present to the committee concerning this division of amounts?

A.—I understand that these accounts were started by the former Secretary, and allowed by the Commissioners.

Mr. Raisch—You have a book where these accounts were carried out? [Pointing to the books.]

A.—Yes, sir.

Q.—How about this planting trees [pointing on a book]—this here?

A.—Why, digging a well, cartage, and cash expenses.

[Here Mr. Fleming examined the books.]

Mr. Carson—Then, Mr. Secretary, it is impossible for you to furnish the committee with the details of the various expenditures of the Park Commissioners, as to the division of the expenditures regarding labor and material, and the division of the labor account in the various forms?

A.—It is impossible for me to—well, what particular work?—digging wells—work about the place?

Q.—Can you furnish this committee with the details of the amount expended for labor upon—for instance, that cut or tunnel on the northern drive?

A.—Yes; as I said before—

Mr. Carson [Interrupting]—Is there any record by which you can arrive at that?

A.—By referring to the Superintendent. It is utterly impossible to arrive at the total cost of the amount expended on the northern drive, as an example; so far as my books show, there is not. It would be almost impossible for me to keep the account of these things. I had to work on other things.

Mr. Carson—This committee cannot go through all that detail. It was presumed by the committee, at the time that this order was made to you, to present such a statement that the books of the Commissioners would show the details referred to in their request or order. The committee are now satisfied that such detailed account cannot be given. That is all, Mr. Fleming, unless you have something else to present to the committee.

A.—I cannot make the statement.

Q.—Do you consider this statement such a statement as was ordered at the last meeting in San Francisco?

A.—No, sir.

Q.—Not in accordance with the instructions of the committee?

A.—No, sir; it would be impossible for me to give you a detailed account of this cut [examining a book and talking in an undertone], separating the accounts, material, and labor.

Q.—I do not think the official report will show any such thing. The order of the committee has not been complied with—a mere division of three hundred and sixty-six thousand dollars is all. Is there anything further that you desire to present to the committee?

A.—No, sir. If the committee desires any other information in regard to labor, I cannot possibly give it—my books won't show it. The Superintendent asked that question—

Mr. Raisch [Interrupting]—Does every foreman keep a time-book out on the park?

A.—Yes, sir.

Q.—Does he give it up every week, or month?

A.—I am not able to answer that question. Mr. Hall has charge of the foreman. I have nothing to do with him at all. I do not even know what work the men are employed at. My pay-roll comes in monthly, and I make out the vouchers for it.

Mr. Carson—We will dispense with any further testimony.

Witness—In regard to the material, I can give you a statement of expenditures, such as hay, grain, plants, lamps, furnishing the office, etc., as far as labor.

Q.—How long will it take you to do that? You could have done that since you left San Francisco?

A.—I could have made a statement in regard to the material.

Q.—I believe that was included in the order of the committee—the statement as to labor, material, seeds, etc. Now, can you have such a statement prepared to present before this committee to-morrow night?

A.—I can furnish you with the whole thing.

Mr. Hall—He says he can furnish you a statement of the whole thing by to-morrow night. I know that he cannot do it.

[Mr. Fleming and Mr. Barber examining books.]

Mr. Barber—These are all the books you have, is it—no others? How is this here [pointing]—well, that's enough.

Mr. HALL recalled for explanation.

Mr. Hall—The work at the park is of such a very intricate nature that it would be utterly impossible to keep a strict account of it. A daily report made out from the entire force would be almost impossible to keep. So far as stable-work and those—

Mr. Carson [Interrupting]—Can you present to the committee the amount—the cost to make that cut or tunnel in the northern drive?

A.—Yes, sir; I can make it up from my report; I am not certain that I have the report here [examining some papers]; no, sir; I have not the papers, they are in San Francisco.

Q.—Can you state from memory anything approximating the cost of that cut?

A.—No, sir? I would not like to do that, because I might go far behind; I might by referring to the old reports in the office.

Q.—Can you approximate?

A.—I might, but I had rather send to the city for my reports.

Q.—Is there anything further, Mr. Hall, you desire to communicate to the committee this evening?

A.—With reference to the question by Mr. Raisch of the committee—I do not remember his question just now.

Q.—With reference to the one thousand seven hundred and forty dollars?

A.—Mr. Raisch said that he saw the voucher, or bill—some paper with that amount on it. I have all the papers here ever drawn to his order? I cannot find any such paper.

Mr. Carson—The Chair will state to you now, sir, that the com-

mittee expect at the next session of the committee, Messrs. Doyle & Reardon, and should you desire to be present at their examination, the committee would be pleased to have you do so; also Mr. Fleming.

The committee adjourned until Wednesday morning, March fifteenth, eighteen hundred and seventy-six, at nine o'clock A. M.

WEDNESDAY, March 15th, 1876.

Committee met. Quorum present.

Mr. HALL recalled.

I appear to testify that Mr. Enright was allowed feed for one horse, by resolution of the Golden Gate Park Commissioners. This resolution was dated April thirteenth, eighteen hundred and seventy-four, and I desire to offer it in evidence. I observe in the testimony of J. J. Brady that he has said that he paid some five hundred dollars to T. P. Reardon on a certain date; that, as he understood it from Mr. Kenny, the object of that five hundred dollars was to secure the approval of a certain bill for extra work. I have a list here and a memorandum of all the vouchers drawn to Mr. Kenny's order. Here is the memorandum, and here are the original papers to verify that memorandum. Here are the vouchers drawn for Kenny's extra work. Two of these vouchers for extra work were drawn previous to my having charge of the park—previous to my being elected Superintendent. I was an engineer at the park previous to my being put in as regular Superintendent.

You'll observe that this first voucher does not bear my signature. It was made before I was given charge of the work. The second voucher for extra work was also paid in the same shape. These payments are for work that I know nothing of; I was, at that time, simply an engineer, and made estimates by the cubic yard. The second bill for extra work, about eight hundred and fifty-two dollars, was presented in this shape. All I know about it is that it came to my hands in this shape. The aggregate of that bill was one thousand eight hundred and fifty-seven dollars and fifty cents, with a subsequent voucher of fifty-four dollars and fifty-seven cents. That bill was submitted to me to look into. Of that bill I had a record kept by my foreman of almost all of the items. These items bear date from September eighth to November thirtieth, eighteen hundred and seventy-one. On December eighteenth I presented a report to the Park Commissioners concerning this bill, and this is the bill as revised by me. The amount allowed on this bill, as extra work by the day, is eight hundred and fifty-two dollars and fifty cents, including the teams submitted by Martin. The amount not paid was one thousand and eighty-five dollars and fifty cents. When I say not paid, I mean not paid in this form. There were some allowances. There are the items [here witness shows bill] which were allowed.

Now, to pass on to the second bill for extra work presented in this form. These figures I find amount to six thousand and twenty-four dollars and ninety-eight cents. This bill was sent to me to be audited. I have made out a statement showing that the bills were re-

duced. The total amount of reduction on two bills alone was three thousand six hundred and five dollars and eight cents, for extra work. Mr. Kenny presented other bills, amounting to six thousand and twenty-four dollars and ninety-nine cents. October first, eighteen hundred and seventy-two, I audited the bill and submitted a statement of what I considered a proper amount to allow him for extra work by the day, which statement is here on file. The result of that was, that of the six thousand dollars presented to me to allow, four hundred and fifty-two dollars was for work by the day. Afterward, in paying Kenny for his contract-work, it was understood by the Park Commissioners that it was for sub-grading, which, at the rate fixed, made one thousand two hundred and ninety-five dollars and thirty-three cents' worth of work. This amount, with the four hundred and fifty-two dollars and fifteen cents, makes one thousand seven hundred and forty-seven dollars and forty-eight cents, the total amount allowed by me out of the bills presented.

Mr. Carson—That makes the one thousand seven hundred dollars referred to by Mr. Raisch?

A.—Yes, sir; I suppose so.

The committee adjourned until recess.

RE-ASSEMBLED.

Mr. Hall—It came to my knowledge that Mr. Donoghue had a conversation with Mr. Reardon about that matter. I wish Mr. Donoghue to state to the committee what he knows about it. I have asked to have him sent for to state that conversation to the committee?

Mr. Carson—Mr. Hall, this will be nothing more than hearsay testimony, will it not?

Answer—It comes direct from Mr. Reardon. Mr. Donoghue heard him state it, for we published that testimony. I simply want him to state to this committee what Reardon told him was done with the money?

Mr. Carson—While the testimony brought by Mr. Hall is not, strictly speaking, the best evidence, and should properly be excluded by the committee, still the committee has no desire to throw the slightest obstacles in the way of Mr. Hall. We will hear the statement for what it may be worth.

P. DONOGHUE called by Mr. Hall and sworn.

Mr. Hall—What is your business, Mr. Donoghue?

Answer—Contractor.

Q.—I understand that Brady was allowing Kenny moneys on his contract, and he thought he had allowed him more money than would be coming to him (Kenny) on his contract?

A.—More than he could securely give him.

Q.—Then why did Kenny send Reardon to Brady to get five hundred dollars?

A.—He thought, of course, that Reardon would have all the necessary means.

Q.—What did Reardon tell you was the reason?

A.—Because he wanted it for his own private use.

Q.—Then Reardon led you to believe that Kenny—

A.—He did not leave me to believe, because I asked him if he knew the object. He said he understood all about it.

Q.—Now, as I understand it, this Kenny was hard up and wanted—

Mr. Carson—You have no personal knowledge?

A.—None, whatever.

Mr. HALL recalled.

Mr. Broderick—Will you state why you have not made walks for pedestrians at the same time as making carriage ways throughout the park?

Answer—The walks were laid out at the same time the roads were graded.

Q.—But no walks up to the entrance?

A.—No, sir.

Q.—Are you now making walks?

A.—I am now making walks to the pic-nic grounds.

Q.—As one of the committee, I think these walks showed be made.

A.—They were not made at first, for the reason that the park would be pleasant for driving long before it could be made pleasant for pedestrians. Now, the Commissioners contemplate completing the walks this spring.

Q.—You never made walks at the time of making the carriage-ways?

A.—No, sir; allow me to read from the report, and I will show you where I refer directly to it. The walks would have been made at once, but it could not have been done. They were all planned and provided for. There was no means of getting to the park the last year. The work throughout this winter, last spring, and last summer, was somewhat of this kind. No more carriage roads will be built.

Q.—Now, there is a statement in your report in regard to the amount of water that has been used in the park. I see by this report that in twelve months you have had fourteen million one hundred and twenty-three thousand six hundred and forty-one gallons of water; some months you used only three and four thousand gallons. Have you any idea of the actual value of that amount of water? Have you ever figured out the value of the water used in the park?

A.—Yes; I have a sort of a system followed in San Francisco.

Q.—How does that compare with how they pay for water? They pay four hundred dollars per month?

A.—I think it is a little less; yes, a great deal less.

Q.—Is it fifty dollars less?

A.—More than that.

Q.—Is it one hundred dollars?

A.—It would be four thousand eight hundred dollars a year for that much water. I think it was in the neighborhood of nine hundred dollars a year less.

Q.—About that much less?

A.—I think it is; I am not certain.

Mr. Carson—You mean the cash value was that much less?

A.—I mean we get it at that much less than manufacturers pay for it.

Mr. Broderick—I see you have gone to the pains of having a tabulated statement made out with reference to what will always form an interesting feature of the park. Here is an exhibit of the accidents at the park. Have you a report of the character of the accidents?

A.—Yes, sir; I have.

Q.—Do you know of any accident occurring to any person at the park—occurring through any carelessness of any attaché of the park?

A.—There have been accidents, but I do not know of what class, or to what extent. There have been one or two runaways; one team was passing the sprinkling wagon, and the horses took fright at that and ran away. One other runaway was caused by the road hose, but whether it was the fault of the man driving the buggy, or not, I do not know.

Q.—If there was anything of that kind who settled the damages?

A.—There never has been any settlement made for any damages caused by accidents.

Q.—I see here in Exhibit E, a tabulated statement of the number of visitors during the year eighteen hundred and seventy-four. I assume that there is great care taken in the report, to give the public to understand just what benefits have accrued from the park.

A.—I take it that the statement is more to show how many have been there, more than to show what benefits have accrued.

Q.—Now take the month of September, eighteen hundred and seventy-four—you have marked the total number of carriages, buggies, etc. Now, I figure this matter in this way; allowing, for instance, four to the carriage, four to the double buggy, and two to the single buggy, would make an aggregate of thirty-eight thousand and ninety-six; deducting the equestrians and pedestrians, would leave a balance of nine thousand and fifty-eight?

A.—That would not be right.

Q.—I conclude that the balance came in express wagons?

A.—The way it was arrived at, the total number of vehicles was multiplied by three, that being the average. On the occasion of races or other special occasions the number was counted separately.

Q.—The tabulated statement will show, will it not?

A.—Yes, sir.

Q.—There is another question I will ask you, and that is, whether you have ever estimated the cost per capita of the people who have visited the park, as to the cost of the park?

A.—Two years ago I did.

Q.—Do you recollect the figures?

A.—No, sir.

Q.—The figures we had here the other day gave it as twenty cents apiece.

A.—You must recollect that the park is not for the people of this year alone, but for all time. You might take the cost of the State Capitol building, and estimate the per capita cost for those who have occupied it so far; but make the estimate years from now and it will be different. It is not alone the number who have visited the park, it is the number who will visit it hereafter.

J. T. FLEMING recalled.

Mr. Carson—It has been asserted and sworn to by *Mr. Enright*, when called by *Mr. Hall*, that certain moneys were received by him (*Enright*) for certain cord-wood which had been sold by *Enright* to *Doyle*. Have you examined your books with a view to ascertaining whether such money has ever been accounted for?

Answer—I have examined the books to ascertain whether any such money has ever been accounted for.

Q.—What is the result of that examination?

A.—I cannot find that any such wood had ever been sold. I find no entries concerning it.

Q.—That is all.

The committee then resolved to take no more evidence, and adjourned to meet at the call of the Chairman.

E

REPORT

OF THE

ASSEMBLY SPECIAL COMMITTEE

ON

LAND MONOPOLY.

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REPORT.

ASSEMBLY CHAMBER,
SACRAMENTO, March 28th, 1876. }

Mr. SPEAKER: Your Special Committee on Land Monopoly, appointed to examine into the condition of the public lands of this State, and other matters connected therewith, beg leave to submit the following report: Your committee have been charged with a task the magnitude and importance of which they did not fully realize until after the investigation was begun, else they would have commenced their work much earlier in the session. The testimony taken by your committee, although somewhat conflicting, shows, we think, the following facts:

There were filed during Surveyor-General Gardner's term of office, seven thousand one hundred and two applications to purchase, the fees for which amount to thirty-five thousand five hundred and ten (\$35,510) dollars. There were issued during the same period, three thousand eight hundred certificates of purchase, the fees for which aggregate eleven thousand four hundred dollars (\$11,400). There was received for patents, during the same period, the sum of seventeen thousand and seventeen dollars and sixty-six cents (\$17,017 66). This last sum does not include any of the fees received during Mr. Gardner's term of office for proferts, duplicate certificates of purchase, or certified copies of papers and documents; the total amount of which fees your committee are unable to accurately determine, for the reason that no fee-books or cash-books, showing these items, could be found in the Surveyor-General's office; although such books, in the opinion of your committee, were kept, and removed from said office before the present Surveyor-General took possession thereof. Your committee are of the opinion that the amount of these fees could not have been less than two thousand dollars (\$2,000). Out of this total amount of sixty-six thousand and seventeen dollars and sixty-six cents (\$66,017 66), there was accounted for and paid into the State treasury the sum of twenty-five thousand and thirty-two dollars and ninety-seven cents (\$25,032 97), leaving a balance to be accounted for of forty thousand nine hundred and seventy-four dollars and sixty-nine cents (\$40,974 69). Mr. Gardner was furnished by your committee with a statement of the foregoing facts and figures, and was afterwards called to the witness stand to explain what had become of this money. He began his statement by saying that

he had paid to the Secretary of State the fees collected for that officer from the several County Treasurers, the sum of seven thousand four hundred and thirty-eight dollars. He was then informed by your committee that this item had not been included in the total amount, as those fees did not properly belong to his office, and therefore cut no figure in the matter. He then proceeded to state that he had paid out, over and in addition to the regular appropriations made and drawn for such services, the following amounts:

For clerical assistance.....	\$25,051 00
For maps and copies of lists.....	2,130 00
Postage, expressage, and telegraphing.....	1,508 19
Traveling expenses.....	2,230 00
Miscellaneous expenses.....	385 00
Total.....	\$31,304 19

There is also another matter for which Mr. Gardner claims a credit: The books of the office show twelve hundred and eighty-six (1,286) applications filed, on which no fees are reported paid (although it was clearly his duty to collect said fees before filing the applications), which would amount to the sum of six thousand four hundred and thirty dollars. Allowing Mr. Gardner the full benefit of all these deductions, there still remains over three thousand (\$3,000) dollars wholly unaccounted for.

But in regard to these deductions, amounting in the aggregate to over (\$37,000) thirty-seven thousand dollars, your committee, from all the evidence before us, are compelled to find and report that, in the first place, the regular appropriations made by law and actually drawn by the Surveyor-General, were as follows:

For clerical assistance.....	\$39,370 00
For maps and copies.....	1,505 00
Postage and expressage.....	1,862 09
Traveling expenses.....	500 00
Contingent or miscellaneous expenses.....	553 00

Your committee are of the opinion that had the affairs of the office been properly managed, all these several appropriations drawn from the treasury were amply sufficient to pay for the services named, without drawing a single dollar from the fees of the office; and your committee are wholly unable to understand how such large sums of money could have been expended in the manner stated by Mr. Gardner. Take, for instance, the item of maps. The testimony satisfactorily shows that during Mr. Gardner's term of office there were procured two hundred and twenty-two regular maps, and twenty-two skeleton maps. There was no book or record to be found in the office showing the cost of these maps, or, indeed, any other expenditures of the office; but it was satisfactorily proved to your committee, by the testimony of such old and experienced clerks in the office as Major Beaumont and Mr. Twitchell, that six dollars each would have been a liberal price for the regular maps, and one dollar each for the skeleton maps; making a total cost of one thousand three hundred and fifty-four dollars, a sum covered by the appropriation, and one hundred and fifty-one dollars to spare. Yet Mr. Gardner tells us that,

after exhausting the appropriation of fifteen hundred and five dollars, he paid, in addition thereto, out of the fees of his office, the further sum of two thousand one hundred and thirty dollars, making a total of three thousand six hundred and thirty-five dollars, or an average of over fifteen dollars for each map.

As to the item of two thousand two hundred and thirty dollars, claimed as a deduction from the fees of the office, over and above the five hundred dollars drawn from the appropriation for traveling expenses to Washington, your committee find as follows:

First—There was no law or authority to be found anywhere authorizing the Surveyor-General to go to Washington on any business connected with his office or the State.

Second—That at the very times he went to Washington the State had an agent—Mr. Hastings—residing there, whose especial duty it was, under the laws of this State, to attend to the very business which Mr. Gardner claims he went there to transact.

Third—That Mr. Gardner, on his first arrival in Washington, instead of prosecuting the case (the Sierra Valley case) in the interest of the State, voluntarily filed a full and complete abandonment of the State's claims to the lands in question.

Fourth—That his second and third trips to Washington resulted no more advantageously to the State than did his first.

It is the opinion of your committee that these trips to Washington, made by Mr. Gardner at the expense of the State, were unauthorized, uncalled for, and entirely without the line of duty of the State Surveyor-General. As to the extra clerical assistance employed in the office during Mr. Gardner's administration, and for which he claims credit to the amount of over twenty-five thousand dollars, your committee find from the evidence, that said extra clerical force consisted of about two extra or additional clerks on an average during said period, who received a salary of one hundred and fifty dollars each per month, amounting to fourteen thousand four hundred dollars. And we further find, that had all the regular clerks and deputy faithfully performed their duties, no extra clerical assistance would have been required.

In consideration of the foregoing, your committee are of the opinion that no satisfactory explanation has been given of the disposition of the moneys received by the late Surveyor-General during his term of office.

We also find that copies of the records of the office have been made by the clerks in the office and furnished to private land operators; and in one instance at least, a blank book, in which these records were transcribed for a swamp-land operator, was ruled, printed, and furnished by the State Printing Office of this State.

We also have to call attention to the fact that an entire book of records of all the certificates of purchase issued during the year eighteen hundred and seventy-four, and the fees paid therefor, has mysteriously disappeared from the office.

There is another matter of a serious nature that yet remains to be noticed. It is what is commonly known among land operators as "stealing lieu." Your committee find that this nefarious business has been practiced from time to time in the Surveyor-General's office during the last two administrations. The *modus operandi* is this: A files a valid application, based on lieu, which is in every respect good and valid. B, desiring to purchase a tract of land, and

knowing of no lieu on which to base his application, goes to the Surveyor-General's office, deliberately abstracts from the application of A the lieu therein described, and copies it into his own application, which he causes to be forwarded at once to the United States Land Office, the application of A being held back. The effect of this is simply to invalidate the application of A, while that of B holds good and results in a patent for the land. From the testimony of experts, it appears to your committee that such a practice could not be indulged in to any considerable extent without the knowledge or connivance of some one in the Surveyor-General's office.

In the matter of the application of one Henry Casey, formerly of San Francisco, to purchase three hundred and twenty acres of land, embracing the property known as the Keystone mine, and of the value of over a million of dollars, it was patented by the Surveyor-General in eighteen hundred and seventy-two, notwithstanding the fact that a valid protest, accompanied by a map, containing a full description of this property, was then on file in his office; and this was done without any notice to the adverse parties, or even the payment of the fees for the patent. The total sum received by the State for this property was *four hundred dollars*.

Your committee made an effort to investigate the affairs of the Surveyor-General's office during the administration of Mr. Bost, and issued a subpoena for his appearance before us. But he could not be found. The records of the Surveyor-General's office and of the Controller's office show that during his administration the fees of his office amounted to over sixty-one thousand dollars, while the amount paid by him into the treasury of the State was but nine thousand one hundred and sixty-eight dollars and ninety cents, leaving a balance unaccounted for of over fifty thousand dollars. No fee-books or cash-books were to be found in the office, showing the actual amount of moneys received or disbursed during his administration.

In regard to the Surveyor-General's office during the present administration, your committee find that the volume of business in the office is as great, if not greater, than during the terms of his two predecessors; that the current business of the office, and a considerable amount of unfinished work of the last administration, is being done by the regular clerks of the office, without any extra clerical assistance, and we find from the statement of General Minis, that no extra clerical assistance is needed or required. We also find, that during his administration a regular and complete set of fee-books and cash-books have been kept, showing every item of the receipts and expenditures of the office.

Your committee further report, that they have not any doubt that large quantities of the public lands have been obtained by frauds of various descriptions, but they are of the opinion that it would be fruitless to pursue that inquiry far enough to bring to light the means adopted by speculators to accomplish their purpose of using the public lands of this State as a capital stock for their speculations. It seems that up to this time ingenuity has not been able to invent a fraud that the Legislature was not willing to legalize, and while your committee have prepared, and herewith present for the consideration of the House, two bills intended to effect some reform in the disposition of the public lands, they have no great confidence in their effecting any good unless the Legislature discontinue their practice of

passing curative Acts, ratifying such disobedience of the laws as speculators may find necessary for their purposes.

Your committee think proper to call your attention to one method of defrauding the public, practiced upon at least one occasion, and which had the merit of requiring no curative Act.

In eighteen hundred and seventy, the Legislature passed an Act amending the Act of March twenty-eighth, eighteen hundred and sixty-eight, which amendatory Act amended section fifty-three of the original Act in such a manner as to limit the amount of lieu land to three hundred and twenty acres to one purchaser.

Before this Act reached the hands of the Governor, this very objectionable feature was, undoubtedly after the bill had passed both Houses, simply eliminated from the bill; and so carelessly, or so boldly was the operation performed, that the section, as enrolled and approved by the Governor, does not make sense.

The section alluded to will be found in the statutes of eighteen hundred and sixty-nine-seventy, page eight hundred and seventy-six. The history of this bill almost precludes the possibility of the mutilations occurring by mistake or accident. The original bill, which is still in the office of the Secretary of State, contains the limitation mentioned. The engrossed copy is lost. But the Act, after passing the Senate, was amended in the House, the Senate refused to concur, and the Assembly receded. The consideration thus given to the bill would seem to render it highly improbable that such a defect could have existed, and pass unnoticed. The bill was approved by the Governor on the last day of the session, probably near midnight, and when it was impossible for him to read it.

By this successful piece of legerdemain the system of forming lieupots obtained another two years' lease, and which was liberally practiced until the limitation finally found its way into the Codes.

In conclusion, your committee respectfully suggest and recommend, as a partial remedy, at least, for past and existing evils and abuses in the management and sale of the public lands of this State, that the Political Code be so amended as to require the Surveyor-General to keep regular fee and cash-books, showing the items and amounts of all moneys received and disbursed by him, and that he be required to report and pay over to the State Treasurer, on the first day of each and every month, the moneys received by him in his official capacity. That he be required to approve all applications now on file, which are subject to approval, as rapidly as the other duties of his office will permit. That no more applications for indemnity selections shall be received or filed; and finally, that a law be enacted authorizing a thorough and exhaustive examination into the affairs of the office of the Surveyor-General, from the organization thereof to the present time; and also the condition of the several grants to this State, and all other matters pertaining to the public lands of the State.

J. W. HARDING, Chairman.
J. S. CHAPMAN,
W. M. CRUTCHER,
JOHN KOUTZ.

PROCEEDINGS

OF THE SPECIAL COMMITTEE OF THE ASSEMBLY ON LAND MONOPOLY.

SACRAMENTO, March 8th, 1876.

Committee met in the office of the Surveyor-General—Mr. Harding, Chairman, presiding.

Mr. Twitchell furnished the following statistical information to the committee:

EXHIBIT A.

Total amount paid at the State Land Office as Register's fees and listing fees on patents issued and delivered from December 2d, 1871, to December 6th, 1875, as shown by the patent delivery books.....	\$17,107 66
Total amount during same period from County Treasurers, as fees for certificates of purchase, as shown by abstract books showing totals of County Treasurers' payments.....	7,539 00
Total	\$24,646 66

No general fee-book was found showing fees received for profits, duplicates, certificates, and certified copies of papers. [Original on file.]

EXHIBIT B.

Statement of applications filed in the office of Surveyor-General from December fourth, eighteen hundred and seventy-one, to December sixth, eighteen hundred and seventy-five.

Applications for swamp and overflowed land, 422. Amount of fees collected on same.....	\$2,110 00
Applications filed under all other grants, 5,394. Amount of fees collected on same.....	26,970 00
Applications for swamp and overflowed land, for filing which no fees were reported, 151. Amount that should have been collected.....	755 00
Applications under other grants, for filing which no fees have been reported, 1,135. Amount that should have been collected on same.....	5,675 00

EXHIBIT C.

RECAPITULATION.

Total number of applications on which the filing fee is reported paid:

Swamp and overflowed lands, 422 applications; amount of fees paid.....	\$2,110 00
Other grants, 5,394 applications; amount of fees paid.....	26,970 00
Total applications, 5,816; total amount of fees.....	\$29,080 00

Total number of applications on which no fees are reported:

Swamp and overflowed lands, 151 applications; amount of fees unpaid.....	\$755 00
Other grants, 1,135 applications; amount of fees unpaid.....	5,675 00
Total number of applications, 1,286; total amount of fees unpaid.....	6,430 00
Total number of applications, 7,102; fees on same.....	35,510 00

Mr. TWITCHELL, sworn.

Mr. Harding—Mr. Twitchell, what is your position or occupation?
Answer—Clerk in the State Land Office.

Q.—How long have you been connected with the State Land Office?

A.—Since the sixth of last December. Prior to that time I was a clerk in the Surveyor-General's office.

Q.—How long have you been connected with this office altogether?

A.—I came in in December, eighteen hundred and sixty-seven.

Q.—And you have remained here ever since?

A.—Yes, sir.

Q.—You have made out statements of the amount of money received for patents, certificates of purchase, abstracts, etc.?

A.—Yes, sir; reaching from the twenty-ninth of December, eighteen hundred and seventy-one, to December sixth, eighteen hundred and seventy-five.

Q.—During Mr. Gardner's administration?

A.—Yes, sir.

Q.—Is this the statement you made out? [Showing Exhibit A.]

A.—Yes, sir.

Q.—Is that copy correctly taken from the books?

A.—Yes, sir; I think it is.

Q.—What was the total amount of the fees collected during Mr. Gardner's term of office, on patents and certificates of purchase?

A.—Twenty-four thousand six hundred and forty-six dollars and sixty-six cents.

Q.—For what was this amount received?

A.—For certificates of purchase, patents, and a portion of it was for listing fees. Formerly each acre of land was assessed two and one-half cents to pay the State's agent at Washington for securing and listing lands to the State. It is included in the patent fees, and the amount for listing fees is not shown separately.

Q.—Does that total include all the fees that were paid into the State Land Office during Mr. Gardner's term of office?

A.—I think not. I was not a clerk in that office during his term.

Q.—Not at that time?

A.—Not at that time.

Q.—What items does it not include?

A.—I presume they were fees for duplicate certificates of purchase.

Q.—Anything else?

A.—For certified copies.

Q.—Anything else?

A.—For certified certificates of purchase.

Q.—Were there any books kept, showing the receipts for duplicates, certified copies, etc.?

A.—I think there was a book showing all these things.

Q.—Where is that book?

A.—I do not know, sir. I found no such book when I came into the office.

Q.—Was there such a book kept at that time?

A.—I am not positive, but I think there was.

Mr. Chapman—Did you ask for that book?

A.—I asked for all important records—I asked Mr. J. O. Wanzer for the book.

Q.—When was that book in the office last?

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A.—I do not know, sir; I never had anything to do with the book; I never had it in my hands.

Q.—You saw it in the office?

A.—I may have seen it—I presume I did.

Mr. Harding—About what would the monthly receipts from these three sources—duplicate certificates, abstracts, and certified copies—amount to?

A.—It would be hard for me to form any idea.

Q.—Can you approximate the amount?

A.—I find, on looking over the papers, since December last, only sixteen duplicates.

Q.—Do you know how many certificates were issued—do the books of the office show?

A.—It can be ascertained, but it would take some little time. In some cases, it is noted on the duplicate book; in others, not. In one case I looked, and no duplicate was to be found, but in the stub-book I would find a note of it.

Q.—I understand you to say that this statement of the receipts of the Land Office, during Mr. Gardner's term, shows the total of twenty-four thousand six hundred and forty-six dollars and sixty-six cents. This statement did not include fees for duplicate certificates of purchase, certified copies of papers, and proferts?

A.—That is what I stated.

Q.—Where are these fees paid?

A.—The practice has been that anything that comes from the Land Office is paid there.

Q.—Are there any books in the Land Office, under Gardner's administration, or any preceding administration, showing the amount of fees received for these services?

A.—I know of no such books.

Q.—Do you know of any such books in the Surveyor-General's office?

A.—No, sir.

Q.—I ask you again, can you approximate, from your long experience, about what the monthly receipts for certified copies, abstracts, and other services not included, would be?

A.—In making such an estimate I can only take the amount received during the past three months and strike an average. I would not attempt a guess.

Q.—What has been the amount received during the past three months?

A.—Major Beaumont can tell you better than I.

Q.—Then this statement covers all the receipts of moneys in the State Land Office during Gardner's administration, so far as the books show?

A.—So far as the books show; there were several items not marked paid on the books, which I did not put in, because, not being marked, I did not know whether they were paid or not. I only included such items as the entries show to have been paid.

Q.—What is that missing book called?

A.—A fee-book; I suppose that is a proper name for it.

Q.—Are there any Land Office fee-books now in this office?

A.—I have a fee-book which has been kept during General Minis' administration.

Q.—Is that of public record?

A.—I suppose so, sir; I know of nothing to the contrary.

Q.—Has such a record been kept by other Surveyor-Generals?

A.—I have no means of knowing what books were kept by General Gardner. When I received money I never made any account of it, but marked it on the books. It was the general practice when a clerk received money he would receipt for it. No one in the office kept any account.

Q.—Did Surveyor-General Bost keep fee-books?

A.—I think he did.

Mr. Koutz—Were these fee-books considered as belonging to the records of the office?

A.—I do not know, but I should suppose so.

Mr. Chapman—Do you know whether the law requires such a book to be kept?

A.—I think it does. A man would not be able to know whether he was losing money, or whether he was being robbed or not. Every officer should keep a cash account.

Mr. Koutz—What disposition was made of the money received for fees?

A.—The report of the Surveyor-General will show, I suppose. I had nothing to do with disbursing the money. I never had more than five or ten dollars in my hands, at any one time, during the term of his office.

Mr. Harding—When General Gardner left the office did he take any books with him?

A.—I do not know, sir; I do not know whether he has any books or not.

Mr. Chapman—What disposition is required to be made of the fees of this office?

A.—The law authorizes the Surveyor-General to expend what is necessary in purchasing maps, and for extra expenses for clerk hire, etc.

Q.—What is done with the rest of it?

A.—It is paid into the State treasury.

Q.—In making your statements to the Controller, did they include the whole amount received, or only such as had not been expended?

A.—I do not know, sir; I had nothing to do with the accounts, nothing further than to note the locations, etc.

Mr. Harding—What expenses were incurred by the office other than those provided for by law?

A.—I do not know, sir; General Gardner can tell you about that; one or two extra clerks—I think two extra clerks it would average all the time.

Q.—Did you purchase some maps or plats?

A.—General Gardner frequently directed me to write for the maps. What the price was I do not know, but I think ten dollars. From what I have heard him say, I think the price was about ten dollars.

Q.—What was the price of maps under General Bost's administration?

A.—I paid for some five dollars, and in some cases as high as ten dollars.

Q.—The usual price was about five dollars, was it not?

A.—I have purchased a number for five dollars; they cost more now than formerly.

Q.—Do the records show how many of these maps have been purchased?

A.—I know of no such records.

Q.—The maps themselves will show, will they not?

A.—I think it would be difficult to pick them out.

Q.—When a plat is filed here, do you not indorse upon it the date of filing?

A.—No, sir; they are simply copies.

Q.—Would the price of these maps, under Bost's administration, average more than six dollars?

A.—Mr. Beaumont can tell you more than I can as to that.

Q.—Well, what is your own opinion as to that?

A.—I should think about six dollars.

Q.—About how many plats were obtained under General Gardner's administration?

A.—I do not know, sir. It would be hard to make a guess. They did not pass through my hands.

Q.—How many maps have you in the Land Office now?

A. [By Mr. Beaumont].—About one thousand two hundred.

Mr. Harding.—When you made out certified copies of papers, or duplicate copies of certificates, did you fix the price, or did the Surveyor-General fix it?

A.—I frequently asked him what to charge. In the ordinary course of business I fixed the price myself. I would ask him the first time, and the next time I would not. Sometimes they were sent C. O. D.

Q.—Did you consider it unnecessary to keep any record of the charges and amounts received?

A.—When plats or copies were sent C. O. D., the money came back and was simply noted on the book as paid. We had a Wells, Fargo book with a blank for the agent to receipt on, and it was checked off on that book. When money was paid to me for any fees, I simply handed it over to General Gardner.

Q.—Was it your duty to file applications?

A.—Only of swamp land. They were handed to me for filing.

Q.—Section three thousand five hundred and seventy-four of the Political Code provides that "each application for lands must be accompanied by a fee of five dollars." Were you in the habit of filing applications without receiving the fee?

A.—Not without special orders.

Q.—Orders from whom?

A.—From the Surveyor-General. Sometimes he would hand me applications, and I would ask him if it was paid. If not, I would not mark it paid on the book.

Q.—This same section provides that the Surveyor-General must record the amount of fees received, and how the same were disposed of. Did you ever make out such a statement?

A.—No, sir.

Q.—Who did; who had the making up of the biennial statements mentioned in this section?

A.—The Surveyor-General and Mr. Wanzer.

Q.—Is Mr. Wanzer a clerk in the office now?

A.—No, sir.

Q.—Where is he?

A.—He is in the city.

Mr. Chapman.—I think we had better ask these gentlemen to make

a statement of each year, as the fees were different prior to the enactment of the Codes. Do you know if the Surveyor-General made any statement of the amount of money received, and how expended?

A.—Yes, sir.

Q.—Do you remember where? You stated that you had omitted some certificates that were not marked paid. Do you recollect how much was omitted?

A.—It might be a couple of hundred dollars or so.

Q.—What were the items?

A.—Certificates of purchase and patents.

Q.—What were the dates of these certificates?

A.—There were semi-annual statements made with this office. I do not recollect the dates. For instance, the County Treasurers might have received seventy-five dollars for certificates of purchase, which would be paid over at the time he would make up his settlement with the State. I recollect seeing one item of seventy-five dollars not marked as paid, and I do not know whether it was paid or not.

Q.—Do you remember when the Act was passed requiring the five-dollar fee to accompany the application?

A.—There was no law to that effect; but you will find that one section of the Codes reads that all applications shall be accompanied by a fee of five dollars.

Q.—Was it two or four years ago that the Act was passed requiring the fee to be paid to the Surveyor-General?

A.—Two years ago, I believe.

Q.—The fees have been paid ever since that?

A.—Yes, sir. I will say that this statement has been prepared in the Land Office up to the end of the Surveyor-General's term. A supplemental statement was made at the close of his term, I believe.

Q.—Has he made any statement to this office as to the amount of fees collected during his term?

A.—No, sir.

Q.—When General Minis goes out of office, by what means can he make a statement of the fees collected from July first, eighteen hundred and seventy-five, to December first, eighteen hundred and seventy-five?

A.—He can only make a statement of fees for his own term.

Q.—That would leave from July to December unaccounted for?

A.—Yes, sir. His report shows that he has paid ——— dollars; received for fees twenty-eight thousand five hundred and ninety-three dollars and twenty-eight cents; paid to the Secretary of State, two thousand eight hundred and ninety-eight dollars; also, expended for maps, records, etc., showing a balance on hand of fourteen thousand five hundred and forty-five dollars. The amount paid into the treasury, by the last report, is twenty-three thousand six hundred and ninety-four dollars. Now, there was an appropriation of one thousand two hundred dollars for maps, and I do not know whether it was ever drawn on or not.

Mr. Harding.—Was there any other appropriation?

Mr. Twitchell.—The first Legislature appropriated six hundred dollars for maps and three hundred dollars for copying. The next Legislature made the same appropriation—eighteen hundred dollars in all.

Q.—How much does that report show to be paid out for maps and extra assistance?

A.—Eleven thousand and forty-nine dollars and eighty-four cents. In the last report he says: "I have paid out for maps, assistance, etc., ten thousand five hundred and eight dollars and ninety-nine cents."

Q.—Is there any one in the office, or who has been in the office, who has any more knowledge than yourself as to the number of maps procured during General Gardner's term?

A.—I do not know of any person, sir, unless Major Beaumont; he has been looking over the books.

Mr. Beaumont—There is nothing to show for it, except by looking over the maps themselves.

Q.—Were there over five hundred procured during his term?

A.—I do not like to venture a guess upon it.

Q.—How many maps are there now in your office?

A.—Twelve hundred.

Mr. Twitchell—If there are only twelve hundred now in the office, there were not near five hundred purchased during his term. Assuming that as a basis, there were not more than two hundred and fifty purchased.

Q.—Well, now, were there more than two hundred received?

A.—I do not know, sir; I would not like to say.

Q.—Is there any means of ascertaining how many were received?

A.—I cannot tell.

Q.—You know of no means?

A.—If I wanted to find out, I would make application to the parties who made the maps, in the United States Surveyor-General's office. Some of them came from Hardenburgh, but since that time they came from Wilder.

Q.—How many maps have been purchased since General Minis went into office?

A.—Only five.

Q.—During nearly four months?

A.—Three months and over.

Q.—How many extra clerks were employed during General Gardner's term of office?

A.—They were changed around so often, it would be hard for me to say. There was Frank Rhoads and Charles Gardner. At times, Reed, of Stockton, was employed.

Q.—Any others?

A.—These clerks were not employed regularly; they were in the office at different times. At one time, young Tuxbury, of San Francisco, was here.

Q.—Any one else?

A.—Mr. Burke was a regular clerk for a long time, and for a while young Jelly was here.

Q.—Any one else you can name?

A.—S. J. Haslen was also employed for a time—two years, I suppose.

Q.—How many clerks was he entitled to by law?

A.—The appropriation was for three clerks.

Mr. Chapman—At the time these gentlemen were here, did he have five clerks besides them?

A.—They were all here at different periods. Mr. Rhoads was here in March, and Mr. Tuxbury was here in August, eighteen hundred and seventy-four, I think.

Mr. Harding—Is there no record to show how much he paid these assistants?

A.—If there is, he has it in his private keeping.

Q.—During the four years do you think it would average more than one extra clerk?

A.—Yes, sir; it would average two clerks, I think.

Q.—What salary were these clerks paid?

A.—One hundred and fifty dollars per month each, I think.

Q.—About three hundred dollars a month, then, for extra assistance?

A.—Yes, sir; and besides that, draughtsmen used to come here and work for a week or two.

Q.—There are no records by which we can get at the amount?

A.—No, sir; I think not.

Q.—You have mentioned all the appropriations for the four years?

A.—No, sir; there are others, such as postage, expressage, etc.

Q.—How much was that?

A.—The books will show how much it was exactly. The appropriation for eighteen hundred and seventy-three-four was the same as the preceding two years.

Mr. Chapman—There was an appropriation made two or four years ago to pay the fees of the Registrar of the United State Land Office—what was that made for?

A.—I suppose for sixteenth and thirty-sixth sections. The surveyor has to certify that the land is clear. For that certificate he makes a charge.

Q.—Do they keep up that practice yet?

A.—They always have claims for such services.

Q.—Under a late decision it does not make any difference whether there is a person on it or not?

A.—The law is to that effect.

Mr. Chapman—He says in this report that he paid so much for maps, records, and documents. What records and documents do you procure?

A.—I do not know, sir. The records he speaks of have reference to township plats.

Q.—Do you know of any records of this office, except what have been made here?

A.—I do not think of any. If there are any I do not recollect them.

Q.—You are familiar with the workings of this office?

A.—Yes, sir.

Q.—I understand you to say you are keeping a fee-book?

A.—Yes, sir.

Mr. BURKE, SWORN.

Mr. Harding—Mr. Burke, you were formerly a clerk in this office?

Answer—I was, sir.

Q.—What length of time?

A.—August fifth, eighteen hundred and seventy-two, to August first, eighteen hundred and seventy-four.

Q.—You are familiar with the records of the office?

A.—Yes, sir. I left the office in August, but my time did not cease until in September.

Q.—Have you examined the books with reference to the number of applications filed during Mr. Gardner's term?

A.—I have, sir.

Q.—State how many were filed during his term?

A.—Seven thousand one hundred and two.

Q.—At five dollars each would amount to how much?

A.—Thirty-five thousand five hundred and ten dollars.

Q.—That, of course, does not include fees for certificates of purchase, patents, etc., testified to by Mr. Twitchell?

A.—No, sir; it embraces simply applications filed in the Surveyor-General's office, and nothing else. There are a few applications which are not included in this, because the records show that the fees were returned.

Q.—How many?

A.—I do not think to exceed fifty.

Q.—Please add the amount which should have been received for applications, and the amount actually received for certificates of purchase and patents, as shown by Exhibit A.

A.—Total, sixty thousand one hundred and fifty-six dollars and sixty-six cents.

Q.—Now, deduct from that the amount shown by the Controller's statement to have been paid into the State Treasurer's office during General Gardner's term, and give us the result.

A.—Thirty-five thousand one hundred and ninety-three dollars and sixty-nine cents.

Q.—State once more the total amount of the receipts of this office during General Gardner's administration, as shown by Exhibit A, and as shown by your statement.

A.—Sixty-six thousand one hundred and fifty-six dollars and sixty-six cents.

Q.—How much is the total amount paid into the State treasury?

A.—Twenty-five thousand one hundred and thirty-two dollars and twenty-five cents.

Q.—That leaves a balance of thirty-five thousand one hundred and twenty-three dollars and sixty-nine cents unaccounted for?

A.—Yes, sir.

Q.—This sixty-six thousand one hundred and fifty-six dollars and sixty-six cents does not include any of the fees received here for duplicate certificates, certified copies, records, and proferts, does it?

A.—Not as far as I know. My statement is for the applications filed, and nothing more.

Mr. Chapman—Now, Mr. Burke, I see by the following, from the report of the Surveyor-General for eighteen hundred and seventy-three, that he had received, during his term, prior to August first, eighteen hundred and seventy-three, the sum of twenty-eight thousand five hundred and ninety-three dollars and twenty-eight cents. Of this amount he paid to the Secretary of State his fees—two thousand eight hundred and ninety-eight dollars. He paid out for maps, etc., eleven thousand and forty-nine dollars and eighty-four cents. Then, in the report of eighteen hundred and seventy-five, I find that he paid to the Secretary of State fees amounting to three thousand eight hundred and ninety-nine dollars; for maps, etc., ten thousand five hundred and eight dollars and ninety-nine cents. Now, what would these amounts foot up?

A.—Fees paid by him during his term to the Secretary of State, six thousand seven hundred and ninety-seven dollars. Amount paid by him for maps, records, documents, extra assistance, etc., twenty-one thousand five hundred and fifty-eight dollars and eighty-three cents,

according to the report you have just read, but not according to the records of this office.

Q.—What is the whole amount?

A.—Twenty-eight thousand three hundred and eighty-five dollars and twenty-three cents.

Q.—How much of the sixty-six thousand one hundred and fifty-six dollars and sixty-six cents would that leave unaccounted for?

A.—Six thousand seven hundred and sixty-seven dollars and eighty-six cents. But I would here state, and Mr. Twitchell will corroborate the statement, that the amount which was paid to the Secretary of State is not included in the amount of fees.

Mr. Harding—Then this six thousand dollars—

A.—Would need to be added to this sum, which shows that there was a difference of thirteen thousand five hundred and sixty-four dollars and eighty-six cents, as the total discrepancy.

Mr. Chapman—How much do you say was appropriated for maps, etc.?

A.—One thousand eight hundred dollars for making maps and copying plats. This has been the amount of the appropriation for the last fifteen years; one thousand two hundred dollars for maps and six hundred dollars for copying plats.

Mr. Harding—Now add to this sum unaccounted for the appropriation for maps, one thousand two hundred dollars, the appropriation for copies, six hundred dollars—total, one thousand eight hundred dollars, and how much is the total amount?

A.—It would be fifteen thousand three hundred and sixty-four dollars and eighty-six cents.

Mr. Chapman—Is it the custom for the office to return fees to the applicant, where the land is found to be occupied?

A. [By Twitchell]—Cases might occur of that kind.

MAJOR BEAUMONT, SWORN.

Mr. Harding—Major Beaumont, how long have you been connected with this office?

Answer—Since the sixth of December last. I was four years in the office during General Bost's administration. I believe I was also in the office during the first month of General Gardner's administration, showing them the routine of the office and other matters.

Q.—During General Minis' present term, for the past three months, do you know what has been the receipts of money for certified copies of papers, proferts, abstracts, duplicates, records, etc.?

A.—The fees have not all been paid. There has been but twenty proferts, at three dollars each, which would be sixty dollars; one hundred and thirty-one duplicates—there would have been thirteen more if Mr. Pendegast had not been taken down sick. Those we have not counted in, though they are all made out and ready.

Q.—Do you know of any fee-books—have you ever seen any fee-books in the Surveyor-General's office since you have been connected with it?

A.—No, sir.

Q.—Any records?

A.—Nothing, only a record of the applications filed. These were all the books I ever had anything to do with. Since General Minis came into office I keep an account of all fees collected, in a regular fee-book.

Q.—How many maps are now in this office?

A.—About one thousand two hundred. No exact list is made out, but according to the best of my recollection there are one thousand two hundred.

Mr. Chapman—How many were there in the office when General Bost's administration closed?

A.—I do not know, but I can find out very nearly by taking a little time. I would have to look over all the maps in the office, and select them out. I would know the maps, as they are bound the same as they were when we were here.

Mr. Harding—They were bound up in volumes, were they not?

A.—Yes, sir.

Q.—How many maps in each volume?

A.—Eight or ten. Besides those bound there were loose maps.

Q.—How many maps exactly, then?

A.—There is no regular number in each volume.

Q.—About how many maps were procured under General Gardner's administration?

A.—I cannot say, sir, without running through them; but I can look over them and let the committee know to-morrow, or at next meeting.

Q.—About how many extra clerks did General Gardner employ in the office, on an average?

A.—I think never less than two, and sometimes three. I am confident it would average more than two. Sometimes Mr. Reed was here for a month at a time; sometimes he was here only a week.

Q.—In your judgment, what would the extra expense be per month?

A.—I should suppose about one hundred and fifty dollars for each man; I would suppose that to be about a correct figure.

Mr. Burke—I was paid out of the fees of the office.

Mr. Harding—How was that, Major Beaumont; were the clerks paid out of the fees of the office?

A.—I suppose so.

Q.—You have heard all the evidence up to this time, have you not?

A.—Yes, sir.

Q.—You have heard the statement of the last witness, that there is something like fifteen thousand dollars that we cannot find out. What has become of it? Can you give any explanation to the committee as to that?

A.—No, sir; I cannot.

Q.—Do you know how the receipts for the last three months for certified copies, etc., compare with those of the preceding four years?

A.—About a fair average of it; I do not know, but it would be, counting six hundred and thirteen proferts, at three dollars, it would be in excess.

General Minis—I think Mr. Gardner's first report says he sent up fifty-three cases.

Mr. Harding—That is the regular charge, is it?

A.—Yes, sir.

Q.—How long has the fee been three dollars for proferts?

A.—Since the Codes went into effect. The price was ten dollars before that.

Q.—Do you know of any other extra expenses that the office would sustain, except for maps and these extra clerks?

A.—I do not know of any, sir.

Q.—I will ask you what was paid for maps under General Bost's administration?

A.—I could not say, sir; I never bought any myself.

Mr. Harding [To Mr. Twitchell]—Can you, Mr. Twitchell, give any explanation concerning this sum of fifteen thousand dollars, unaccounted for here?

A.—No, sir; I do not know anything about it.

Mr. Burke—The committee should understand that six thousand four hundred dollars of this amount consists of applications not marked paid on the books.

Mr. Harding—Mr. Burke, can you inform us who brought in most of those applications which are not marked paid on the books?

A.—Some of these applications were from B. B. Redding, P. O. Wagner, A. P. Redding, W. R. Cantwell, M. F. Johnson, and J. S. Coates; all these have numerous applications which are not marked paid.

Committee then adjourned to meet at call of Chairman.

FRIDAY EVENING, March 10th, 1876.

EXAMINATION OF MAJOR BEAUMONT RESUMED

Mr. Harding—Major Beaumont, please state if you have made an examination as to how many plats were procured by this office during General Gardner's administration, and if so, how many?

Answer—I have made an examination as to the number; I may not be correct, but I make it out two hundred and forty-four. Some of them may not have been filed during his term. When I think they may have been filed during his term, I count them in as being filed during his term.

Q.—State about what you think these maps would reasonably be worth each—what it would cost to procure them on an average?

A.—Well, if I had the contract to furnish them, I would be willing to take it at five dollars a copy. Some of them have a good deal of work, and would probably be worth more, but I would be very willing to furnish them, on an average at that price.

Q.—What price was paid, on an average, under General Bost's administration?

A.—I do not know, sir.

Q.—About what has been paid during the present administration?

A.—There have been but four or five maps purchased during General Minis' term, and these cost from six dollars to ten dollars each. Three of them have a great deal of work on them, and cost from seven dollars to ten dollars. There are four or five here, and I did not ask what the charge was for all of them.

Q.—Upon many of the maps procured during General Gardner's administration, was there not very little work, and very small, the cost probably not exceeding two dollars each?

A.—I found twenty-two copies of township maps, mere skeletons, showing the swamp land in the township, and these could not have cost more than one dollar each. I think that would have been a very liberal allowance.

[Witness here shows copy of map, which is marked Exhibit B, and made part of this evidence.]

Mr. Harding—Will you state, Major Beaumont, what would have been a very liberal price to have been paid for these two hundred and forty-four maps?

A.—I think six dollars would have been a very good price. These twenty-two small maps would not be worth more than one dollar apiece.

Q.—How much would that amount to?

A.—Two hundred and twenty-two maps at six dollars each, taking out the twenty-two small maps, would be one thousand three hundred and thirty-two dollars.

Q.—How much would have been a fair allowance for the skeletons?

A.—I think one dollar would have been a very good price; I would like to make them at that.

Q.—A total cost for maps of how much?

A.—One thousand three hundred and fifty-four dollars?

Q.—How many plats in the office?

A.—I found one thousand two hundred and sixty-four township plats; of that number, forty-three were duplicates. I found twenty-two of these not actual duplicates. Sometimes the Government makes part of a survey, and afterwards makes the rest of it. Really, there are only one thousand two hundred and eleven?

Mr. TWITCHELL, recalled.

Mr. Harding—I will ask you, *Mr. Twitchell*, if you made out, or had made out, in this office, a list of the whole number of certificates of purchase issued during General Gardner's term of office?

A.—It was prepared according to your request.

Q.—How many were there?

A.—Three thousand eight hundred.

Q.—What fee does the law require you to charge for certificates of purchase?

A.—Three dollars.

Q.—What would be the amount of fees for these three thousand eight hundred certificates?

A.—Eleven thousand four hundred dollars.

Q.—How does that correspond with the statement filed by you the other evening, as to the amount shown to have been paid, by the books?

A.—The amount greatly exceeds it. It would amount to three thousand eight hundred and sixty-one dollars more than the amount shown in the statement made by me.

Q.—Your statement was taken from the books of Gardner's term?

A.—Yes, sir; the books, not the fee-book, but the books showing the settlement of the County Treasurers with the State Controller.

Q.—Since making out your statement marked "Exhibit A," have you discovered the loss of any books which should have been used in making up your statement?

A.—I have discovered that there is no book showing settlements with County Treasurers for the year eighteen hundred and seventy-four, on account of certificates purchased.

Q.—How do you arrive at the exact number of certificates during his term?

TOWNSH

6
7
18
19
30
31

A.—I simply took the numbers. The different classes of lands have a regular series of numbers. School lands have a regular series of numbers. Each class of land has a separate series of numbers.

Q.—Does this statement you have made out show those facts—the different classes of land for which these certificates were issued?

A.—Yes, sir.

Statement here offered in evidence, and marked "Exhibit C:"

EXHIBIT C.

Statement showing number of certificates of purchase issued (of all kinds) during the four years commencing December fifth, eighteen hundred and seventy-one, and ending December fifth, eighteen hundred and seventy-five.

School land interest certificates.....	2,354
School land principal certificates.....	246
Swamp land survey interest certificates.....	672
Swamp land locations interest certificates.....	55
Swamp land survey principal certificates.....	260
Swamp land locations principal certificates.....	18
Tide land interest certificates.....	47
Tide land principal certificates.....	37
Warrant location certificates.....	81
Five-hundred-thousand-acre grant certificates.....	27
Public building certificates.....	3

Total 3,800

3,800 certificates, at \$3 dollars each \$11,400

Q.—Is there a possibility of a mistake in these certificates of purchase, they being numbered regularly?

A.—I cannot see how this could be; I think it is correct.

Q.—As far as the books of this office show, other than those from which this statement was taken, no certificates of purchase whatever were issued from this office during the year eighteen hundred and seventy-four?

A.—That embraces all that were issued during the entire period.

Q.—Have you made search for this missing book, showing the number of certificates issued during the year eighteen hundred and seventy-four?

A.—It should have shown the amount paid to the Register by the County Treasurers at their semi-annual settlements.

Q.—Do you know whether this book is in the office?

A.—I do not think so. If it is in the office, it is somewhere out of the way, where I have not thought of searching. It is not with the other books of the same class.

Q.—Did you make diligent search for it, sir?

A.—Yes, sir. I cannot find it.

Q.—If the book were produced it might account for the discrepancy between the amount of money shown by the books to have been received for certificates of purchase actually received, and that which should have been received, as shown by the number of certificates?

A.—I do not think it would. It would partially account, but not entirely. Eighty-one certificates issued on school warrant locations. The fees for these certificates did not come through the County Treasurers. They would have been paid to this office direct. There are cases where certificates were issued on old locations. In these cases the fees would not come through the County Treasurers.

Q.—Would it have been all in the book?

A.—I suppose it would have appeared on the fee-book.

Q.—I understood you to say that there are no fee-books?

A.—I have seen none. I mean I have seen no general fee-book kept during the former administration. Of course, there are fee-books kept now.

Q.—And prior to General Gardner's administration?

A.—I think there were, sir.

Q.—Please state again the amount of the discrepancy in the aggregate of the fees actually received for certificates as shown by the books, and those as shown by the certificates themselves?

A.—Three thousand eight hundred certificates, at three dollars each—eleven thousand four hundred dollars. My statement, made up from payments reported from the books found, amounted to seven thousand five hundred and thirty-nine dollars. The difference is three thousand eight hundred and sixty-one dollars.

Q.—Now, sir, may there not be similar discrepancies in regard to the amount of money received on patents, as taken from the books, and that actually received for the whole number of patents issued?

A.—I think not, sir; for the reason that this patent delivery-book appears to be in regular order, running right along through, and marked paid as they have been paid, either through Wells, Fargo & Co., or by the parties calling at the office and paying for them. There appears to be no break.

Q.—You have stated that there are two hundred and twenty-two regular maps, and twenty-two skeleton maps procured under General Gardner's administration, at an average of six dollars and one dollar, which amounts to one thousand three hundred and fifty-four dollars. In this statement now shown you, under the hand and seal of the Controller of State, showing the total amount of money drawn for all purposes of the Surveyor-General's office during General Gardner's term, there is one item for purchase of maps, one thousand three hundred and twenty dollars. Do you think that amount was sufficient to cover all the maps purchased during his term?

A.—Major Beaumont is more competent to answer that question than I am.

Q.—Major Beaumont, will you please answer that question?

Mr. Beaumont—I suppose that would be about right, as near as I have figured it; some of the maps are very cheap. If I was correct as to the number of maps, I suppose that amount would about cover the cost. If I had a contract I would have no hesitancy in taking it at that price.

A statement, full, true, and correct, of the several amounts drawn from the respective appropriations made for the Surveyor-General's and the State Land Office of the State, so far as the same relates to the term of office of Robert Gardner, ex-Surveyor-General and ex-Register of the State Land Office, as now appears of record in the office of Controller of State, and signed and sealed by W. B. C. Brown, Controller of State, was here offered in evidence, and marked "Exhibit D," of which the following is a summary:

RECAPITULATION OF STATEMENT.

Salary of Surveyor-General.....	\$8,011 12
Salary of Deputy.....	3,440 00
Salaries of Clerks.....	25,240 00
Pay of Porter.....	1,202 12
Postage and expressage.....	725 00
Purchase of maps.....	1,320 00
Binding books and contingent expenses of Surveyor-General's office.....	353 00
Copying maps.....	185 00
Salary of Register of State Land Office.....	8,011 12
Salaries of Clerks in State Land Office.....	14,130 00
Postage and expressage.....	1,137 09
Binding books.....	200 00
Traveling expenses.....	500 00
Total.....	\$64,454 60

Q.—Please examine this statement, Major Beaumont, and state what you think as to the amount set down there for clerk hire, and whether it was sufficient to pay for all the assistance in the office during Gardner's term?

A.—For clerk hire, thirty-nine thousand three hundred and seventy dollars?

Q.—Yes, sir.

A.—You mean for the whole four years of his term?

Q.—Yes, sir; for the four years.

A.—Well, twenty-five thousand two hundred and forty dollars would be a salary for four clerks four years. That would leave fourteen thousand one hundred and thirty dollars for the fifth clerk for the four years, and five is all the law allows, and one extra one.

Q.—Look at the item in the Controller's statement for copying maps—one hundred and eighty-five dollars—and state whether or not you think that would be a proper amount for that purpose?

A.—Well, I do not know just now. Formerly in the office here copies were made and sent to the different County Surveyors. It has not been the custom lately to do that. In some of the lower counties they are made for the County Surveyor; but I do not know of any other purpose for which they have been made. Where there is swamp land the County Surveyors have to have maps. I do not know as there was an appropriation made for that purpose.

Mr. Twitchell—I do not recollect ever seeing any copies made.

Mr. Beaumont—I suppose it is necessary sometimes to have copies made; but I did not know before that there was an appropriation for that purpose. I knew there was an appropriation some fifteen years ago; at that time there were surveys of swamp lands.

Q.—Now state any further facts within your knowledge that will throw any light upon the receipts and expenses of this office, other than those already stated by the witnesses?

A.—I do not know of any other receipts except that stated in the evidence before—filing applications, certificates, patents, copying papers, proferts, etc. I think these are all.

Q.—Major Beaumont, state, if you know, anything of this missing book showing receipts for certificates for eighteen hundred and seventy-four?

A.—No, sir; I do not.

Q.—Do you know of any other books missing from this office besides the fee-books, and the record of receipts for certificates of purchase, for eighteen hundred and seventy-four?

A.—I do not, sir.

Committee adjourned.

WEDNESDAY EVENING, March 13th, 1876.

Committee met in Surveyor-General's office, Mr. Harding in the chair.

Mr. TWITCHELL, recalled.

Mr. Harding—I wish to ask you, Mr. Twitchell, about these so-called lieu-pots. What is understood by the expression of "lieu-pot." "Land grabbers" are what is meant by that?

Answer—Suppose a man discovers lieu in different localities and land districts. Perhaps he finds the land grant has covered sixteenth and thirty-sixth sections, and he makes the discovery that the State is entitled to lieu. He does not know where the lieu is entitled to be located. So he makes application for land which he never proposes to perfect the title of—may be ten or fifteen thousand acres at a time. He allows it to remain in this office. Then that forms a "lieu-pot," and on that he draws, as he has occasion to use it. For instance, if he finds a piece of land that he wants, he applies for it, and writes to this office to take it out of his "lieu-pot."

Q.—He has a sort of reservoir here, then, on which to draw?

A.—Yes, sir; I have known of such pots covering four or five thousand dollars.

Q.—Do you know many cases of this kind in the last four or five years.

A.—I know it has been done.

Q.—Do you know who has been in the habit of adopting that course of tying up lieu for future use?

A.—Not of my own knowledge. I have heard it frequently spoken of.

Q.—I understand, sir, that there are large numbers of applications at the present time, unapproved in this office, and have been for two years. Where there is no conflict, and no reason why they should not be approved, do you know why they have not been so approved?

A.—I do not, sir; I do not know how many there are of them. That was not within the scope of the department of the office of which I had charge. There are more in "place" than in "lieu."

Q.—And many in place on sixteenth and thirty-sixth sections?

A.—Yes, sir.

Q.—It is the duty of the Surveyor-General to approve applications for sections in place in sixty days, is it not?

A.—It becomes necessary after sixty days to obtain certificates from the United States Land Office.

Q.—Is it not to the interest of the State that they should be formally approved?

A.—Yes, sir.

Q.—In case they are not, does not the State lose interest from grants of land?

A.—Yes, sir; interest is lost.

Q.—Do you know, of your own knowledge, that there are nearly a million acres of land in this condition, from which the State is receiving no interest?

A.—I have never heard any definite estimate of the number of acres.

Mr. Chapman—Do you know of any case where the United States has ever allowed lieu lands where they were preëmpted by settlers?

A.—I cannot speak from my own knowledge, not being in that branch of the business.

Mr. Harding—This is a matter of history. They have allowed it in many cases. That I know of my own knowledge.

Mr. BURKE, re-called.

Mr. Harding—I have requested you to be present for the purpose of looking into the subject of "lieu pots," or, in other words, tying up lieu lands, thereby monopolizing them and depriving the State of the interest. Please state to the committee what you know of that matter.

Answer—It has been for years the practice of parties to make a business to ascertain when and where the State may be entitled to select lands in lieu of sixteenth and thirty-sixth sections lost to the State. On ascertaining that, applications have been sent to this office to select land in lieu of land sections so lost to the State, and in many instances these applications have been filed evidently for the purpose of tying up this lieu until these parties can find more desirable lands, when they will let their first applications go by default and locate the other land.

Q.—To what extent has this been practiced in this office during the last four or five years?

A.—It would be impossible to answer that question exactly, but I will state that many thousands of acres have been so located which have since been abandoned, after having served their purpose.

Q.—From an examination of the books, how many thousand acres have been monopolized in that manner?

Witness here proceeds to examine records in the office, and answers: Put down in one case fourteen thousand acres; put down in another case three thousand eight hundred and forty acres; put down in another case eighteen thousand three hundred and eighty-seven and thirty-eight one-hundredths acres. Total, forty thousand and twenty-seven and thirty-eight one-hundredths acres. These are all in Los Angeles Land District, and have all been patented.

Q.—State by whom these have been made?

A.—Principally by F. A. Hyde—in fact, nearly all of them.

Q.—When were they made?

A.—In eighteen hundred and seventy-two.

Mr. Chapman—Were they made in their names, or were they made in the names of attorneys?

A.—There is a book here, showing the land and the lieu, and showing that this lieu has been all used out subsequently. This is known as the report of the Los Angeles Land District, and is in serial numbers.

Q.—How many land districts are there in the State?

A.—There are ten, sir.

Q.—And you give, as an example, these applications in a single district?

A.—In a single district. San Francisco has been the largest district. I refer to this because it is more condensed, and contains the largest transactions.

Q.—Look at that book [shows book], and explain what these red lines mean?

A.—It means that the lieu has been taken out in the subsequent location, and in some instances has been taken for other land. Now,

in this case, you will see that all this lieu—batches one hundred and seven, one hundred and nine, and one hundred and eleven—was taken out and used to locate other lands.

Q.—How long has this system of lieu-pots prevailed in this office?

A.—A large number, sometimes more, sometimes less—ever since the passage of the Green bill, in eighteen hundred and sixty-eight. The custom has prevailed more or less for a number of years. It was not practiced to any great extent prior to that time, for the reason that the Act of eighteen hundred and sixty-three, which was repealed by the Green bill of eighteen hundred and sixty-eight, restricted purchasers to three hundred and twenty acres, and the locations were made by the State Locating Agent (an agent for each land district in the State).

Mr. Koutz—That is, the Act of eighteen hundred and sixty-three limited the amount, and the Act of eighteen hundred and sixty-eight repealed that limitation?

A.—Yes, sir. In eighteen hundred and seventy, an effort was made to re-enact that law. The law, as it now stands, limits the amount to three hundred and twenty acres. This is a subject on which a great many have an erroneous idea—that parties never could apply for more than three hundred and twenty acres. The evidence is here that there was such a law at one time.

Mr. Blackwell—About these abandonments, you say they have used this lieu, and then abandoned the original locations?

A.—Yes, sir. I think it was all used before it was abandoned, otherwise they would lose the opportunity to save it.

Mr. Harding—You have stated that this lieu-pot system has been practiced here by what parties?

A.—Nearly all in the name of F. A. Hyde, I think.

Q.—What is the aggregate of these locations in the Los Angeles Land District, which you say were made by Hyde?

A.—Forty-seven thousand three hundred and eighty-seven acres, or about that amount.

Q.—Has the same system been indulged in by other parties?

A.—Not to such an extent, sir. There have been some filed in Humboldt Land District, and also in San Francisco, but the main party has been the firm of Mullen & Hyde.

Q.—What do you know of the system, which I understand has been practiced, where parties apply in the name of one person, and afterwards putting on an application in the name of another person for the purpose of creating a conflict and thereby depriving the State of its interest?

A.—That would be a hard matter to determine. There might be something in the former location which would require—

Q.—What is the natural inference to be drawn when we see so many of those applications put on by the same attorneys?

A.—The inference would be that it is for the purpose of creating a conflict, which would prevent the issuance of certificates by the Surveyor-General.

Q.—State, if you know of any further information upon that subject, Mr. Burke?

A.—Here is something which will verify all I have said. There are a large number of applications on file in this office which were sworn to in some instances a year or more prior to their filing. The inference to be drawn from this would be that these applications had

been signed in large batches at a time, apparently in blank, and subsequently filled out as the land became subject to location.

Q.—Do you mean to say that the affidavit was taken and the application sworn to before the land was subject to location?

A.—That is the apparent evidence without looking at the locations. I refer here, as a sample, to numbers five thousand six hundred and forty-two to five thousand six hundred and forty-nine, San Francisco Land District, which applications were filed in October, eighteen hundred and seventy-three, and the affidavits on which such applications were based were made in October, eighteen hundred and seventy-two, or about one year prior to their filing. There are numerous other instances of such applications, where a less length of time elapsed between the date of the affidavit and the date of the filing of the application. I would state here to the committee that there is a possibility that some of these dates may be wrong; therefore I do not state positively, but wish you to refer to the applications themselves; they will show. Again, the committee might ask the Surveyor-General to show them applications numbers five thousand five hundred and eighty-eight, five thousand five hundred and eighty-nine, five thousand five hundred and ninety, five thousand five hundred and ninety-one, and five thousand six hundred, San Francisco Land District, which applications, I think, will show on their face that they originally embraced lands in one land district and one county, and subsequently, when filed, embraced lands in another district or county, thus, apparently, showing that the applications must have been changed "after signature."

Q.—And the sworn statement of facts made applicable to one tract of land was afterwards changed and made to apply to another tract of land by a change of description, without a new affidavit?

A.—The applications may have had some pencil marks showing that they had at one time been sent to this office, and by the pencil marks on them evidently returned not filed, and afterwards come back with different land.

Mr. Koutz—Are those the only applications of that kind?

A.—I do not remember of any others, although there may be others. I do not say there are, for I do not know. I have a memorandum of this one, and I can speak positively on that.

Mr. Harding—I understand that you mean to convey the idea that these applications, properly sworn to, have been sent to this office, then afterwards returned to the party making them, and by them changed so as to include different lands, and refiled without a subsequent affidavit?

A.—Not by the parties themselves, but by their attorneys.

Q.—Were additional fees paid into the office for such?

A.—It was customary for Mullen & Hyde to pay their fees once a month. It was not customary to charge for applications unless the applications were filed, and any fees sent with it it was customary to return.

Mr. Chapman—Was he in the habit of receiving them and holding them without filing them?

A.—You mean when an application was placed in my hands. It was my duty to report to the Surveyor-General any conflict with other lands, and then, if instructed to file, it was my duty to file the applications.

Mr. Koutz—After applications were once filed, were they ever canceled and returned to the parties, and then refiled on other lands?

A.—I do not know of any instances of that kind.

Q.—These applications returned were not filed?

A.—They were returned to them not filed, and the same applications subsequently came back with other land in them.

Mr. Harding—With the old affidavit?

A.—Yes, sir. Here is an instance: Number five thousand six hundred [shows application], which came to the office, made by John E. Tucker, dated San Francisco, March seventeenth, eighteen hundred and seventy-three, sworn to before J. H. Blood, calling for the north half of section six, township twenty-six south, range seventeen east, Mount Diablo meridian, and north half of section six, township six south, range seventeen east, Mount Diablo meridian, on which application, with pieces of paper pasted over the written and printed matter—this location desired to be taken in lieu of northwest quarter of northwest quarter of section thirty-six, township nine south, range three east, Mount Diablo meridian; northeast quarter of section thirty-six, township eleven south, range two east, Mount Diablo meridian; and south half of southwest quarter of section sixteen, township eleven south, range four east, and northeast quarter of northeast quarter of section sixteen, township seven north, range thirty-one west, San Bernardino meridian, on which is noted in pencil that a portion of this land is in lists one and two, and list twenty-three. There is also another number, which is not distinct. The application, as it is now on file, reads for the northeast quarter of section eighteen, township eight south, range three west, Mount Diablo meridian, one hundred and sixty acres, Santa Cruz County.

Mr. Chapman—Do you know of any instances where applications have been sent to the office and kept here for any considerable length of time without being filed?

A.—Yes, sir; and I can state the land.

Q.—Do you know why that was done?

A.—I cannot say what the motives were for not filing them. But I know there have been applications here for some time, and subsequently withdrawn.

Q.—Have you known of any being kept in the office for a time and subsequently filed?

A.—I think there have been instance of that kind, but I cannot refer to the number of such locations.

Q.—Do you know of their being taken up and filed for another application, and coming in for the same land from some other party?

A.—That is, applications coming to the office?

Q.—Yes, sir.

A.—All letters coming to the Surveyor-General are opened by him or his deputy, and if any such applications were received it would be impossible for any other person except himself to know, unless such applications were given to the clerk, with the land embraced, or that such applications were, in fact, in the office.

Mr. Chapman—How long were you clerk in this office?

A.—From the fifteenth of August, eighteen hundred and seventy-two, to September first, eighteen hundred and seventy-four.

Q.—What was your duty?

A.—When I came to the office my first duty was to make out delinquent lists. Subsequently I took and marked on the maps the lieu

that the State had selected, for which it had received indemnity; after that it became my duty to be jack-of-all-trades. In time I took hold and had charge of receiving and filing and approving all applications of sixteenth and thirty-sixth sections, and lands in lieu thereof, and applications for the five hundred thousand acre grant. In addition, it was my duty to write up this report book, and to mark all locations on the map.

Mr. Chapman—You have testified here in regard to inferences. Is your testimony solely on inferences, or have you knowledge of the facts? You spoke of several applications having been filed a year after they were sworn to?

A.—I have no personal knowledge of this; it is merely inference.

Mr. Chapman—You stated something in regard to some other applications, where you inferred that the description of the land had been filled up long after the application had been sworn to.

A.—They are the ones I have just referred to; I have no personal knowledge.

Q.—You stated that some of these applications were in fact sworn to in blank?

A.—I have not seen the applications before they were received by this office. I cannot state that as a fact.

Q.—Then it was a mere inference?

A.—I gave samples of books to show how the business was conducted, and from those I drew my inferences.

Q.—Were you led to these inferences from any personal knowledge of the facts?

A.—I have been led to make these inferences from the specimen application which has been shown to the committee.

Mr. Koutz—This application is of that class, made for a certain piece of land originally, and sworn to as such, and afterwards changed so as to apply to another piece of land without a subsequent affidavit. The original affidavit was afterwards made to apply to another piece of land?

A.—Yes, sir; without an affidavit of a subsequent date. There is but one affidavit on the application.

Mr. Blackwell—From your information of the management of these things, I suppose the applicant marked that land in San Luis Obispo and inserted most of this land here? [Showing.]

A.—It is not in the applicant's own handwriting.

Mr. Chapman—Most of the applications here are made out by attorneys?

A.—Yes, sir; but sometimes the applicant makes out the application himself.

Mr. Koutz—You have no means of knowing whether that change is made with the knowledge of the applicant, or not?

A.—No, sir.

Mr. Chapman—Have you made any investigation to find out whether other parties than Mullen & Hyde have been engaged in tying up lands?

A.—Yes, sir; there are other parties. B. B. Redding. His were mainly sixteenth and thirty-sixth sections.

Q.—In these lieu-pots, did I understand you to say there would sometimes be several thousand acres in one application?

A.—Yes, sir.

Q.—Is there nothing in the law to prevent it?

A.—I do not know how the law can be construed since the Act of eighteen hundred and seventy.

Q.—Have you a copy of the Act?

A.—Yes, sir [shows]; section fifty-three; you will find it. It was not considered that there were any restrictions up to eighteen hundred and seventy-three.

Mr. Koutz—Up to the time that the Codes took effect, you say it was considered that applications could be filed for any amount?

A.—Yes, sir. When an application was filed, whether it was filed as a bona fide application, or whether it was filed to hold lieu, it was not in the power of the office to ascertain positively; but it was not understood generally that there was any limit as to the amount of land any one man could apply for under the grant of the sixteenth and thirty-sixth sections. It was not in the power of the office to ascertain whether they were bona fide at all times.

Mr. Koutz—Those applications which were filed a few days, or but a day preceding the taking effect of the Codes, which limit the amount to three hundred and twenty acres—the inference is natural that these applications intended to get in here before the Codes took effect, so that they could be used after the Codes took effect. Is not that the inference?

A.—That certainly would be my inference. It would be the natural inference which any man would draw.

Committee adjourned to meet at call of Chairman.

WEDNESDAY EVENING, March 14th, 1876.

R. E. HOUGHTON, sworn.

Mr. Harding—Mr. Houghton, what is your business?

Answer—Attorney at law; I am practicing in San Francisco.

Q.—In the course of your practice, has your attention ever been called to the system practiced in the Surveyor-General's office, in locating and purchasing public lands?

A.—Yes, sir; and more particularly within the past two years.

Q.—Do you know anything of any practices having been indulged in by parties in the Surveyor-General's office, in tying up lieu lands, or in any other reprehensible practices, in regard to the location of lieu lands and indemnity selections; if so, please state fully to the committee what you know of the matter?

A.—Yes, sir; I think I do. Of course, I have heard the rumors, as every man practicing in San Francisco must have heard, who have ever had anything to do with locating lands, that certain parties in San Francisco control all, or nearly all, of the land locations of this State, through combinations made with the late Surveyor of the United States and the ex-Surveyor-General of this State. But my attention was particularly called to it about six months ago by parties coming to my office and pointing out land to me that they wished to locate. I came here, and investigated the maps and records of this office in connection with that particular land, and that led me to investigate them generally, but I found, in connection with the land in Mendocino County, that it was all applied for, and I returned to the city, and so reported. The parties, it seems—the parties for whom

I was interested, it seems—were aware of that, and gave me some further information, and told me to investigate it further and more fully, and to see who had applied for the land, and to collate all the facts, and they would see if steps could not be taken in the matter to break up the swindle. I came back to Sacramento and made a close and careful investigation into these lands, and searched the records, and books. I found they were all applied for by one firm, who appeared as attorneys for the parties. The applications, I found upon examination, to have been nearly all filed on one day. Three or four of them might have been filed on another day, but most of them were filed the same day. I returned, after having obtained that information, to determine as to the bona fide of the parties making these applications, and I found, upon investigation, this state of facts.

Q.—Who were those parties?

A.—Mullen & Hyde, of San Francisco.

Q.—Did they appear as attorneys or as principals?

A.—They appeared as attorneys. I found this state of facts to exist: I found that certain parties went to Mullen & Hyde in the year eighteen hundred and seventy-three, and also eighteen hundred and seventy-two-three, and desired them to locate certain lands for them. An agreement was entered into between Mullen & Hyde and these parties by which they agreed to make locations on these lands and furnish them title from the State to between four and five thousand acres of land in Mendocino County, for a certain price agreed upon. The parties resided in Mendocino County. After that agreement was made, these applications were put on file for these lands. Later, when these parties came to San Francisco again and wanted them to carry out the contract, they said the land was worth more, and declined to carry out the agreement, though these parties had furnished the information by which these lands were located. These applications were on file, and no approval of them had been made until the last of November. Some time in the early part of last year, Mullen & Hyde entered into an agreement in which they contracted to sell all these lands to men by the names of West Evans and A. W. Hall, for six dollars and twenty-five cents an acre, I think, and they agreed to furnish the parties with title from the State. There was a contract made by Mullen & Hyde to sell all of these lands before there ever had been an approval of any of the applications.

Mr. Koutz—Who were those parties?

A.—West Evans and Hall—both lumbermen up there. I further made an examination as to who these parties-applicant were, and I satisfied myself of one of two facts—that they were either fictitious persons, or else they were parties picked up in the streets of San Francisco for that purpose, and that for a mere nominal consideration made these applications, and I immediately reported these facts to the parties interested, and told them I did not think such a system as that would stand, and that if they wanted the land, by making bona fide applications, I believed they could get it. These applications were made, and whether they took any chances for their applications by slipping in ahead of us, I found them here in person, and I was told by the parties to see myself that these applications were filed, and not to leave them to be filed after I left. I examined the records after I arrived here, found no other applications were filed, except Mullen & Hyde's, and I handed them to General Gardner when he came in, the first thing in the morning, and requested him to file

them at the time. He seemed to feel somewhat hurt that I should make such a request of him, and after some little conversation, he said they would be filed, but they were not filed at that time. I asked General Gardner at the time whether it would be necessary for me to file protests against the approval of the other applications—this was on the thirteenth of November. He said it would not be necessary to file such a protest, as the filing of two applications created a contest, which would at once prevent the issuance of an approval to either party. He said explicitly that it was not necessary to file any protest. I had then in my pocket, all prepared, a general protest, ready to file against all approvals of all lands. This I had previously prepared, because I was in a very great hurry, and wished to get away on the afternoon train. But as he assured me it would not be necessary to file a protest, I kept it in my pocket, and drew up a special protest against three applications that had been approved, and filed that. He said to me, "This we'll hang up until I go out of office." I was then on my way to the southern part of the State. I gave him my address, and he said he would inform me of affairs, and that he would send me notice when they were filed. I was down there two weeks. I returned to San Francisco on Friday, the day before General Gardner went out of office. I telegraphed to him as to the condition of that land applied for by me. His answer was, "Very busy; no time to examine; will do so and report." I did not like the tone of his answer, because I knew it was something he could tell in a moment. That was Saturday. For some reason I could not get away on Sunday, but on Monday following I came up to Sacramento. On Tuesday, I came into the office. General Gardner came up to me in a hurried manner, and said, "I was going to write to you about the approval of those applications." I expressed some little surprise about the approval of them, and said to him that I would examine the matter, and see him later. I looked into the matter, and found that those very applications he said could not be approved, were all approved the very day after I left here, and while my applications were on file. When I spoke with him later, he said the approval took place when he was away from here; also, that the certificate of purchase was issued when he was away from here.

Mr. Harding—Do you mean to state that the certificate of purchase was issued on those lands?

A.—Yes, sir; the certificates of purchase were issued, notwithstanding there was a contest in this office as to the lands. General Gardner charged the whole thing upon his deputy, one A. N. Guptill. I saw Mr. Guptill later about it, and he did approve them—they were approved by deputy. I asked him if he knew of the contest having been made. He said he did. That it was the practice not to recognize anything of that kind, or give the parties any chance to be heard. That if the parties who had the first applications on file came and demanded an approval they approved it. I have examined the records of the office thoroughly, and can find no other such case. That left me with certificates of purchase outstanding against the land, where, as I claimed, I was entitled to a hearing in this office; and if not, I was entitled to a hearing in Court; and when it was for no other reason, except by the express word of Mr. Gardner that I should have them issued to me. I then commenced further investigation as to the manner in which these applications had been filed

by this firm, and in the course of that investigation I found a lot more applications. [Here witness refers to application book of Marysville Land District.] Page second, volume —, from numbers two thousand one hundred and twenty-two, down to and including two thousand one hundred and twenty-five, and, also, two thousand one hundred and fifty and two thousand one hundred and fifty-one, I find have been filed by Mullen & Hyde. On the twenty-fifth day of April, eighteen hundred and seventy-three, no action had been taken, except two of them had been approved, but fifty days had elapsed, and Mullen & Hyde had again refiled them. They had allowed the former applications to lapse. In connection with that I find an agreement by Mullen & Hyde with one Jason Springer, dated April twenty-seventh, eighteen hundred and seventy-three, as much as two days before the first filing was made on these lands, in which they agree, two days before any application was filed on any of these lands, to furnish, within ninety days, a title to the land, for the consideration expressed in this agreement, to be about two thousand acres of land. None of these applications are in their names. By the terms of that agreement they were to be paid in two, three, four, five, and six months. All of those notes have been paid, and they have made no effort to give title to these lands; and there is a suit pending in San Francisco on this very matter.

Mr. Koutz—What is the original cost of this land? What did Mullen & Hyde pay for it?

A.—By the terms of the agreement, Springer has to pay the State price, besides the payments to Mullen & Hyde. These are all the parties—Jason Springer, Ransom Springer, C. M. Smith, H. L. Smith, Pat. Brenham, James Powers. Only one of these applications has been approved, and that is Mullen & Hyde's. I think, if the committee will look at the two signatures, C. M. Smith and H. L. Smith, they will be satisfied that the same man wrote them both.

Mr. Harding—I understand you to say that General Gardner, at the time you filed your applications, on the thirteenth of November, eighteen hundred and seventy-five, assured you that the filing of them would create a conflict, and therefore no approval could be issued?

A.—Yes; that is just what he said to me. "I understand the law just as you do—that the filing of a second application creates a contest." He added: "This we'll hang up till I go out of office." On the strength of that I pocketed my protest, because I was in no great hurry to go into Court, and made out a protest for the three applications that had already been approved.

Mr. Koutz—Were certificates of purchase issued for these three, also?

A.—No, sir; the protest prevented that; and had I put in my protest for all, it would have prevented all the others. If the committee will look at the law they will find that filing an application creates a contest, and the statute provides how that shall be disposed of. That is the case.

Mr. Harding—One other matter I wish to ask you about—the double use of lieu. What do you know of what is called "stealing lieu" out of the applications in this office?

A.—The only way to find out such a thing as that would be to have some one in the office familiar with the Surveyor-General's

office to make an examination of the records, and they will show this state of affairs. I have found it and had it, and thought I had it with me, but come to get here, I find I have not. If a party makes an application for lieu land, and another party comes into the office, and takes that lieu, and inserts it in his own application, upon the strength of that application a certificate of purchase may be issued. For some reason or other no effort is made to have these lands listed to the State. The application is on file, but hangs along until another application is made by the other party for lieu land, in which the same lieu in the first application is inserted. That is double use of that lieu land. Then this second application is made out and forwarded to Washington, and on that the land is issued to the State, and then again a certificate of purchase is issued, so that the State seems to get double the amount of land that she is entitled to in lieu of sixteenth and thirty-sixth sections. Such is not the case, however; it merely knocks the bottom out of the first application. The first application drops to the ground. To-day, I looked into that matter, and found a case illustrating the matter. I think I can show the committee a case in point. Application number two thousand four hundred and seven is by John G. Twing. It applies for south half of section ten, township three south, range nine west, San Bernardino meridian. That is filed on the first of March, eighteen hundred and sixty-nine. Now it claims that land in lieu of east half of section sixteen, township eleven south, range one east, on the strength of the approval of this application in eighteen hundred and sixty-nine, and the certificate of purchase issued. That certificate of purchase is outstanding now, and I understand that the interest has been paid up to this date. Application number three thousand six hundred and sixty-nine calls for all of section twenty-four, township twenty-two south, range ten east. That application has in it, or claims to have certain land in lieu of which they desire to take that section. Before the list is prepared to be sent to Washington, that lieu which was in the original application is slipped out, and this lieu for the east half of section sixteen, township eleven south, is put in its place, and on the strength of this the land described in the second application is listed to the State, and afterwards, of course, the party gets a certificate of purchase for that land, which afterwards results in a patent.

Mr. Harding—State to the committee what the object was in substituting the lieu in the second for the first?

A.—So as to get title.

Q.—The lieu in the second was worthless, was it not?

A.—Yes, sir; but it could just as well be listed. This will show in ink on the application, and it will show in pencil where the lieu is stolen from the first application.

Mr. Koutz—Is that substitute of the good lieu for the bad lieu made in this office?

A.—Yes, sir; it must have been. There could be no other way by which it could be done. I found this out by having some one refer me to one of the filings. I came to this office this morning, and I could find no record that would point out to me any official case where there had been double use of this lieu. The usual practice in the Surveyor-General's office always has been, that when an application is filed in this office it is given a number. That number is placed on the plat of the land applied for, and thus the number, also, is placed on the land in lieu of; so that if the lieu is attempted to be

used after it has been used, you find it on the number of the section lost. I followed the numbers through on this lieu described in the first application. I cannot find that it has been used on any other application. I spoke with the Deputy Surveyor-General about it, Major Beaumont, and he said to me to look at the list-land book, and possibly I would find it there. I said, that cannot be, because when the list comes into the office, the number of the list is put on the map, and there was no such number on this section; but, to make assurance doubly sure, I looked at this last list, and found the numbers in this last list, which purported to be put on the maps in other cases. It has not been put on in this case.

Mr. Harding—But this lieu is numbered in the certified list in the General Land Office in Washington?

A.—Yes, sir, and had not been marked on the plats in this office. This is but one case. There are many of the same kind in this office. But if all the numbers in that kind of transactions have been concealed in this way, it will be hard to find it out.

Q.—Is it not positively necessary to mark the numbers on the maps in this way? Is it not positively the duty of the office, under the law?

A.—I should consider it my duty to show every piece of land. If it is not thus shown they are liable to use it indefinitely, and give certificates of purchase to several parties for the same land. Of course, only one man gets the land eventually. The certificates are all equally good, however. So far as general land monopoly goes, every one knows how that is done, and the records of the Surveyor-General's office are the best proof of that. Take any book in the office and you will see that there are more than a million acres of land tied up in this State. Of this the State loses her interest. This tying it up prevents others from applying for it, and the only way to reach it is to find out who the speculators are who control these applications, and go to them and buy the land through them. It is all held for the purpose of speculation. There is no intention on their part to improve these lands, but they are held for a premium. I know of a case where this firm hold two thousand acres, which they have tied up in this way in two or three years. They got the approval thus. A party came to me and told me how the land was tied up. He got no title. I told him I did not believe they could hold land under that system. He said he would search for the parties who made the applications, and try and get deeds from them. He did hunt them up. He found most of them down on Pacific street. It is hardly necessary to state that these parties had no interest whatever in the land; that they simply made the application for Mullen & Hyde, for a consideration of five or six dollars.

Mr. Harding—They were paid for making the applications, instead of paying for making them?

A.—Yes, sir.

Q.—State any further facts you may know in regard to land approvals in this office, or of the practice of making locations.

A.—What I know outside of that is what I have gleaned from the books in this office. The Surveyor-General, of course, can furnish them. They will show just what I have stated. They show further that these applications are all by the same parties, on the same day, in the same writing, sworn to before the same Justice, etc. This has been the practice, as the books will show, and the maps also—to have

these applications made just as soon as the survey is made in the field. They really apply for the lands when they are not subject to location, and before the plats are filed in the office.

Mr. Harding—Have many applications to any great extent been filed during the last four or five years on lands, the official plat of which is not on file in the local office at the time they were made?

A.—A very large amount of land has been applied for in that manner.

Q.—Are you aware there is a bill before the Legislature for the purpose of curing these applications?

A.—Yes, sir.

Q.—What will be the effect of it?

A.—In nine cases out of ten it would confirm, in these applications used as "dummies," the title to the lands, which they got by following the surveyors around and locating them, and making applications by the dummy system for all of the lands before even the settlers on these lands have a show.

Q.—Then the party who desires to locate land, and conforms strictly to the law, would have no opportunity to get his applications on file, as the case now stands?

A.—No; it is utterly impossible to do it, from the manner in which the thing has been done heretofore. I am also aware that the bill you speak of was introduced into the House and Senate on the same day, and both bills are in the handwriting of the clerk of Mullen & Hyde. I am aware, further, that the letter and telegram which were sent to one of the members of the House to be used, and which were read, were signed by one J. Henley Smith, who is a relative of Mullen's, of that firm, and that he has an application on file in this office which will be affected by this bill.

Q.—If you are correct in your estimate of a million acres being tied up by these applications for some years past, what has been the loss to the State in the way of interest money alone on that amount each year?

A.—The annual loss to the State would be one hundred thousand dollars interest money. Of course, there has not been as much as this every year. But I am satisfied that I have understated the amount of land so tied up.

Mr. Koutz—Did I understand you to say that nearly the entire amount of these applications are made by speculators in San Francisco?

A.—Yes, sir; I did say so. I think that two-thirds or three-fourths are made by San Francisco land-grabbers.

Mr. Harding—Do you know who they are?

A.—The leading ones are Mullen & Hyde, B. B. Redding, J. P. Dyer. (He is Deputy United States Surveyor-General.) He had the contracts for making these surveys in the field. He had many applications.

Q.—Is there no way to remedy this evil than to compel the Surveyor-General of this State by legislation to approve these applications when there is no conflict, and when there is a conflict to refer them immediately to the District Courts for adjudication, so as to set the interest running?

A.—I do not think, now, there is any other remedy. Though, as far as the first branch is concerned, I do not think any such legislation is needed. I think it is the duty of the Surveyor-General, after

sixty days, if an application is on file, to approve it, and in case there is no contest, and the lieu is good, it is his duty to approve it. Under the present law, he cannot send the case to Court. There are numerous cases of lands contested, seemingly for the contest; and it is not in the power of the Surveyor-General to send these cases to Court. The only way to get them into Court is to make such a law, compelling him to do it.

Mr. Koutz—Has the Surveyor-General no power to bring such a case to an end?

A.—No, sir; he cannot do it. Under the law as it now exists, he cannot send it into Court, even.

Mr. Harding—It would remain there until Gabriel blew his trumpet?

A.—Yes, sir; if it went into Court, the same party could hold it there by being both plaintiff and defendant.

STATEMENT OF R. E. HOUGHTON.

Locations in San Francisco District.

Nos. 5288, 5289, and 5290—Filed February 5th, 1873. Abandoned.

No. 5293—Filed February 7th, 1873. Abandoned.

Nos. 5512 to 5514—Filed June 5th, 1873. Abandoned.

No. 5537—Filed July 9th, 1873. Abandoned.

Nos. 5605 to 5617—Filed September 11th, 1873.

Nos. 5605, 5606, and 5607, only. Abandoned.

First filings of Mullen & Hyde on Donahue Creek, land referred to by R. E. Houghton.

Second Filings.

Nos. 6137 to 6139—Filed November 11th, 1874.

Nos. 6173 to 6185—Filed February 9th, 1875.

R. E. Houghton's application, Nos. 6401 to 6412, filed November 13th, 1875, for same land called for by Mullen & Hyde's Nos. 6173 to 6185, thus creating a contest. Mullen & Hyde's application approved November 19th, 1875, and certificate of purchase issued November 24th, 1875.

The foregoing statement is taken from the records of this office, and is correct.

R. E. HOUGHTON.

SATURDAY EVENING, March 18th, 1876.

ROBERT GARDNER, SWORN.

Mr. Harding—You have held the office of Surveyor-General of this State, and ex officio Register of the State Land Office, during the last four years?

Answer—I have, up to December sixth, eighteen hundred and seventy-five.

Q.—You have been shown the evidence taken before this committee in this case?

A.—Yes. I have not read all of it; I simply run through it. Some of it I do not understand very clearly.

Q.—I will call your attention first to the figures, showing what purposes to be the receipts of the Surveyor-General's office. The evidence given in this case by the witnesses shows that during your administration seven thousand one hundred and two applications to purchase were filed. That this number, at a fee of five dollars each, as prescribed by law, would amount to thirty-five thousand five hundred and ten dollars. That during the same period three thousand eight hundred certificates of purchase were issued, which, at a fee of

three dollars each, as prescribed by law, would amount to eleven thousand four hundred dollars. The patent fee-books show that during the same period seventeen thousand one hundred and seven dollars and sixty-six cents was received for patents, making an aggregate of sixty-four thousand and seventeen dollars and sixty-six cents. That, of course, does not include any of the fees received by the office for certified copies, etc.

A.—Does that include the fees of the Secretary of State?

Q.—No, sir. The Controller's statement shows that during your administration you paid into the State treasury twenty-five thousand and thirty-two dollars and ninety-seven cents, leaving a balance unaccounted for of thirty-eight thousand nine hundred and thirty-four dollars and sixty-nine cents. Now, please state fully any information you have.

A.—I will make this statement: That I have not been present during this investigation. I have heard none of the testimony. I took the testimony home to read it, but did not have time to read it clear through. But I will say this—that I only account for about sixty-three thousand dollars. The greatest discrepancy is in the number of applications upon which fees have been paid. In making up my statement of fees I figured up the amount actually paid. They speak for themselves. Each application was charged five dollars for swamp and school lands. Those books will explain, in a great measure, this discrepancy. A great many of these applications are amendatory applications. If you file an application to-day and a week from now send up another, in the same name, for the same piece of land on which you may have filed before the plat was surveyed, no additional charge would be made. There might be an error in your affidavit, or something wrong, that you should wish to file a second amendatory application. In that case I would allow you to file a second application. In some instances three or four applications may have been filed by the same man, on the same land, and in such cases I did not consider it my duty to charge for these amendatory applications. I thought it was the best policy on the part of the State to pursue a liberal policy, and to deal liberally with the people. A great many of the fees which are not marked paid on the books can be collected. Of course those applications which are marked paid show exactly what fees have been received, with, perhaps, a slight variation. Occasionally there are some marked paid which were not paid. The fees in the Register's office were kept by my clerk, Mr. Wanzer, and before I can make any full statement, I must have memorandum from his books. He has these memoranda.

Q.—Can you furnish this by Monday?

A.—Yes, sir; by Monday. I will say this, that with a few exceptions, the books of the office will show what the receipts of the office have been.

Q.—Will the books of the office show what fees have been received for making out patents, abstracts, certificates, certified copies, duplicates, etc.?

A.—The duplicate certificates show—the proferts show—in the book in the office.

Q.—Is there any book in the office that will show what the receipts of fees were during your term?

A.—No, there is no such book. I never kept any regular cash-book. I never found it necessary.

Mr. Chapman—Did you keep no fee-book except the entry-book?

A.—No; that's all. I made up my reports from the memoranda Mr. Wanzer would give me from time to time of the receipts; but the great bulk of receipts outside were principally from patents, duplicates, proferts—the patents were very few—and also the listing fee, which was collected by me for two years only. There has been no listing fee for the last two years, as that law was repealed.

Mr. Harding—Is the committee to understand that you kept no books at all showing the fees received for proferts, abstracts, certified copies of papers, and duplicates?

A.—There were no abstracts. The Treasurer's books show the amount of receipts and the amount of certificates of purchase.

Q.—I am not speaking now of certificates of purchase or patents. For what other purpose did you receive fees besides certificates of purchase, proferts, patents, and applications?

A.—Listing fees, patents, applications, and occasionally a duplicate certificate, proferts, and certified copies of papers occasionally. I have the amount of certified copies. I can make up a statement that will show in detail.

Q.—You never kept any regular fee-book at all?

A.—No, I never kept any. There never had been any such books kept before I went into office. I knew what the items were that were specified by law that we should collect money on, and the accounts were returned by the County Treasurers. These County Treasurers' returns show what moneys were received by them, and also what moneys were received by me.

Q.—How many applications appear as filed on your books?

A.—That I cannot tell; I have not a statement. I think about one thousand one hundred. I think I have a memorandum that will show.

Q.—That would be five thousand five hundred dollars?

A.—Yes, sir. Then of that there are some amendatory applications; how many, I forget.

Q.—These three thousand eight hundred certificates of purchase issued during your term—they were paid for?

A.—They were not.

Q.—Would you issue a certificate of purchase without being paid for it?

A.—They were issued by the County Treasurers, who paid me every three months. General Minis is now receiving fees for certificates I issued during my term of office.

Q.—Would you not have received some during your first year from the former administration, in the same way, that would offset what you left outstanding?

A.—No, sir.

Q.—Would not the one stand-off the other?

A.—No, sir.

Q.—What disposition was made of the receipts of the office, other than the twenty-five thousand and thirty-two dollars and ninety-seven cents paid into the State treasury by you?

A.—I paid over seven thousand dollars to the Secretary of State.

Q.—These are not included?

A.—No, sir; this was not included. The balance was paid out for maps and extra assistance. Of course I cannot give a detailed statement now.

Q.—Did you keep any account of the money paid for maps and plats?

A.—I did.

Q.—You did?

A.—Yes, sir.

Q.—That will show precisely?

A.—Precisely, to a dot.

Q.—Is that record in the office?

A.—No, sir; no record.

Q.—You say you did not deem it necessary to keep a record of that kind?

A.—No; it was my own private matter. I never paid out any money without vouchers for it.

Q.—Then you kept some private books, which you took away with you?

A.—No, sir; I kept no private books. I made up my reports from these vouchers.

Q.—Did you keep any account of what was paid for extra assistance in the office?

A.—I took receipts for all moneys paid for extra assistance. After the first nineteen months I made my report by reckoning up the receipts and disbursements.

Q.—Now, General, assuming that there were one thousand one hundred certificates of purchase on which no fees were ever paid into your office, that would amount to five thousand five hundred dollars. There would still be thirty-three thousand dollars of which we have no account, so far as the investigation has gone. What disposition was made of that?

A.—To show that I will have to make up my statement.

Q.—How soon?

A.—By Monday evening.

Q.—You are not prepared now?

A.—Not on that point.

Q.—The testimony in this matter developed the fact that there is a book showing the receipts for certificates of purchase for eighteen hundred and seventy-four, which cannot be found. Do you know anything about that book?

A.—I know that I left every book in the office that was in the office when I went there, and a good many more, besides. As far as that book is concerned, I cannot tell where it is. It was there when I went out of office, and as far as that particular book is concerned, it is not necessary—there are other books that will show the same information that this book will, so that it would be no object for taking that book away.

Q.—We want to know where that book is, that is all?

A.—It is there—it is not lost.

Mr. Chapman—Did you ever keep any book account of expenditures?

A.—No; no regular book. I kept a memorandum of expenditures, and compared these memoranda.

Q.—Are those vouchers part of the records of the office?

A.—No, sir.

Q.—There is nothing, then, in the office to show what the disbursements have been during your term?

A.—Nothing at all.

Q.—Could you produce the vouchers?

A.—I think I can.

Mr. Harding—State what you know of lieu-land pots, or the practice of tying up lieu lands in this office?

A.—Well, that is a hard question to answer. I have never heard that mentioned before, and I do not know exactly what you mean. This question, I noticed, was mentioned in the evidence.

Q.—Yes, sir. There was evidence before the committee that certain parties, during the last four or five years, had monopolized all the lieu-land selections, by securing lieu, putting it in applications in this office, and afterwards taking them out, and using them in other applications?

A.—I do not know that that was done during my term of office. I found a great many large applications, which had been made previous to my going into office. The law allowed these large applications to be made; and while I was Surveyor-General, if I received a large application, I did not send them to the Land Office until I knew the State had lost the land. And where a large application like that was filed, I never refused to receive another application for the same land, with the same lieu, if it was desired. And in the Los Angeles District, one or two of these large applications, each of which I believed was intended to tie up land as lieu, I did not know which, and parties came in, I allowed them to file, using the same lieu. I never refused to use the lieu.

Q.—How many acres were there in the Los Angeles District?

A.—I do not remember.

Q.—Something like seventy-five thousand acres, were there not?

A.—No; nothing like that amount.

Q.—Who made those applications?

A.—Those during my term were made by Mullen & Hyde.

Q.—Did you approve those applications in sixty days?

A.—I could not approve them.

Q.—Was it not your duty to approve them in sixty days?

A.—No, I think not. I was entitled to approve them if the State was entitled to the land.

Q.—The sooner these applications were approved the better for the State, was it not?

A.—When I came into office I found thousands of applications unapproved.

Q.—Did you know of any instances during your administration where good lieu was taken from an application and inserted in a subsequent application, thereby rendering the first application invalid?

A.—I did not. That was a matter I did not personally supervise. I left it to the clerks to examine; I very seldom examined them.

Q.—You approved all the applications, did you not?

A.—Not all of them. Either me or my deputy.

Q.—Was it the practice of the office to approve applications for land in which there was a contest?

A.—Yes; unless there was a protest filed. If not, they could have applications on file indefinitely in that way.

Q.—In these large applications put on by speculators did they not instruct you not to approve their applications, so as to deprive the State of her interest money?

A.—They did not.

Q.—The books show that a large number of applications of eighteen hundred and seventy-three, by Mullen & Hyde, where there is no conflict, and the applications apparently good, and still they were not approved. Why were they not approved?

A.—I think there are very few on file that can be approved that are not approved.

Q.—According to this statement I have, which was made out by the Surveyor-General, there was only one unapproved application in eighteen hundred and sixty-three; only one in eighteen hundred and sixty-four; in eighteen hundred and sixty-five, only twenty-five; in eighteen hundred and sixty-six, only five; in eighteen hundred and sixty-seven, fifty-two; in eighteen hundred and seventy-three, there are four hundred and ninety-two; in eighteen hundred and seventy-four, there are seven hundred and eighteen?

A.—How many in eighteen hundred and sixty-eight?

Q.—Two hundred and thirty-eight; in eighteen hundred and seventy, one hundred and eighty-one. Altogether there are three thousand five hundred and seventy-five unapproved, and out of this whole number there are only one thousand three hundred and four conflicts, leaving over two thousand applications on file. Of course, the State is losing its interest on these amounts?

A.—There are reasons for this. Before I went out of office we approved a great many applications. I would take them up in regular order. I have never examined the files, but I thought there were more unapproved applications.

Q.—There seems to have been a very large number in eighteen hundred and seventy-three?

A.—What made me say there were thousands, I understood General Minis to say that there were ten thousand unapproved applications in the office.

Mr. Chapman—I think this only embraces school lands?

A.—I understood him ten thousand unapproved applications for school lands. I never had occasion to count them.

Mr. Harding—State what you know, General Gardner, in relation to the applications to purchase and the final patenting of the property which embraces the Amador mine?

A.—That is on the sixteenth section. I know nothing of the filing of the application or the issuing of the certificate of purchase.

Q.—The patent was issued during your administration?

A.—I know that the patent was issued, but that is all I know about it.

Q.—Was there a protest on file at the time it was issued?

A.—It seems so; yes, sir.

Q.—The value of that property is something like a million of dollars?

A.—Yes, sir; so I am told.

Q.—It was purchased of the State for four hundred dollars, and a patent issued to the purchaser?

A.—Yes, sir.

Q.—You knew nothing of the proceedings which resulted in a patent?

A.—I did not; no, sir. I only know the land was sold and the certificate of purchase surrendered. The records show that fact.

Q.—The records will also show that there was a protest on file. Is it usual to issue a certificate while a protest is on file?

A.—The law requires that a protest shall expire in six months, unless some action is taken.

Q.—What is the object of filing a protest?

A.—The object is to stop proceedings. Under the present law, filing a protest stops proceedings, except after a certain length of time. We will get the law and see what it says. The Codes have changed the law in that regard. The law of eighteen hundred and sixty-eight made it discretionary with the Surveyor-General whether he sent a case to Court or not; to use his own discretion about it.

Q.—Were you aware of the value of this land at the time the patent was issued?

A.—No, sir.

Q.—Were you aware that parties were living on it, and had been for years?

A.—No, sir; I knew nothing of its history at all. Here is the law, which says—(Act of 1868, Sec. 17)—which says that a protest is null after six months, unless some action is taken.

Q.—Who was the purchaser of this three hundred and twenty acres, embracing the Amador mine?

A.—I think a patent was issued to Gillett.

Q.—He never lived on the property, and had no improvements on it, did he?

A.—I do not know anything about that, sir.

Mr. Chapman—Who was it that made the conflicting application with this man Gillett?

A.—There was no conflicting application.

Q.—Then who filed the protest?

A.—It was simply a protest. There was no application on file in contest. It was a man named Casey. It was simply a protest against the issuance of a patent. It was issued by General Bost. The certificate of purchase came in in the regular order of business—the records will show from whom.

Q.—Upon what grounds did the party protest?

A.—I do not know. My attention was not called to the protest until afterwards. I think the patent was issued two or three years ago.

Q.—Did the party protesting claim any interest himself?

A.—That I do not know; I never read the protest.

Mr. Koutz—Were you aware that the protest was on file at the time the patent was issued?

A.—Yes, I think I was aware there was a protest on file, but I did not know the nature of the protest. We go by the law, and when a protest has been filed for six months and no action taken, we issue the patent. That was the practice of the office before I came in. I did not know anything about the value of that land. It was a matter which took place before my time. The State had sold the land and had issued a certificate of purchase, and no conflicting applications appeared on the record. My attention was never called to any conflict by any of the parties in interest. I will say this in regard to, issuing patents: My attention was very seldom called to the issuance of patents, excepting there was a contest regularly on file, as between conflicting claimants and the State.

Mr. Chapman—About these large amounts of lieu lands in one application. You say that you would receive applications for the same land afterward. In any of these instances, do you know

whether the subsequent application was made by parties claiming the land?

A.—Not one of them. On the contrary, they were made by adverse claimants in interest entirely.

Q.—Do you know of any instances where a party filed an application, and then procured a conflicting application in order to prevent approval?

A.—Not one.

Q.—Have you any reason to believe that such a practice prevailed?

A.—None at all, sir.

Q.—You never had anything to do with the State Land Department prior to taking the office of Surveyor-General, did you?

A.—No, sir; never was in the office but once. I had no business there at all, until I took possession of it.

Q.—Do you know anything of the history of the Act of March fourth, eighteen hundred and seventy?

A.—I know that such legislation was attempted, and the statute shows it to have been very bad. It was always considered that it did not amount to much.

Q.—That is the case evidently.

A.—Under that construction, applications were received by my predecessor, and I also received them until the Codes took effect in eighteen hundred and seventy-three. Under the Act of eighteen hundred and sixty-nine-seventy, there was no limit to the amount that a man could apply for in any one county.

Q.—You say you made a practice of receiving amendatory applications for the same land from the same parties without charging but one fee?

A.—I did.

Q.—Do you think you were justified in that?

A.—I think so. The law says you must pay five dollars for filing an application. If you amend that it is not like filing for another piece of land.

Mr. Harding—The law requires that every application shall be accompanied by a fee of five dollars.

A.—I know it. But for years the State office has received applications before the plats were filed. The law simply states when the land was surveyed. When the land was surveyed we had no decision. It has been the practice to sell the land the moment the stakes were driven in the field. They would send in their applications and explain why they wanted to file. Because if we did not, speculators would step in and get the land. The records of the office will show that during the last three months there have been over six hundred applications filed, and a large number of these have been filed on the decision of *Stewart v. Opely*. During my term there were never more than three hundred for the same period.

Q.—You did not decline a fee, did you, if it was offered?

A.—No, sir. You will find some of them marked paid. Some of these amended applications, I mean.

Q.—What is the number of certificates issued for which you received no fees?

A.—Very few. They were only duplicate certificates.

Q.—Were there a dozen out of the three thousand eight hundred?

A.—Yes, probably; I can't say. There were very few, because

every certificate—every regular certificate—was paid to the County Treasurers, and by them paid to me.

Q.—Please look at this statement from the Controller's office, which shows the expense of running the Surveyor-General's office, during the four years of your administration, amounting to seventy-seven thousand three hundred and thirteen dollars and fifty-two cents, and say whether it is correct?

A.—Yes, it must be correct. As regards appropriations, this must be correct.

Q.—In this statement there is an item, which was paid, of one thousand three hundred and twenty dollars for maps. Do you think that will cover the purchase of maps?

A.—No, sir.

Q.—The evidence shows that there were two hundred and twenty-two maps and twenty-two skeletons, or township plats, purchased during your term. About what did you pay for these maps, on an average?

A.—For every large map I paid ten dollars. I never bought one for less than that price.

Q.—Major Beaumont testified that he thought they could be had for about six dollars apiece on an average?

A.—I never paid less than ten dollars. That has been the general price. For some special maps, which were forwarded to Washington, I paid as high as thirty dollars. Mr. Hardenburgh can testify as to that. His bill will show what I paid.

Q.—Have you any books or memoranda that will show exactly what you did pay for maps?

A.—I have.

Q.—And you can furnish them to the committee?

A.—I can, sir.

Mr. Chapman—General, in your last report, after stating the amount collected for fees, and the amount paid to the Secretary of State, you say, "I have paid for maps, records, documents, extra assistance, etc., ten thousand and eighty-eight dollars and ninety-nine cents." What records and documents were you required to purchase for the office?

A.—My statement on Monday will show what records and documents were procured.

Q.—This report gives the amount of fees from the sixth of August, eighteen hundred and seventy-three, to July first, eighteen hundred and seventy-five. You afterwards say these fees have been decreased by the repeal of the Act listing land. That Act was repealed in January, eighteen hundred and seventy-four.

A.—They were not decreased. When I wrote that I was not thinking of collecting fees on swamp lands. We collected fees on swamp lands for the last two years. This I did not call to mind when I wrote that report.

Q.—This two and a half cents per acre listing fees, is that included in the amount which you had before stated that you had collected?

A.—Yes, sir; everything.

Q.—That two and a half cents you had no authority under the law to expend. Was that not to be paid into the State treasury for the purpose of paying the State Land Agent?

A.—The fees were all paid in together. Never paid them in separately.

Q.—There are certain fees which you are allowed by law to expend in maps, extra assistance, etc., and if there was anything left it went into the State treasury. But this two and a half cents was not included in the fees out of which you are entitled to pay for these things?

A.—I see that the law reads that these fees shall be collected and disposed of as other fees are collected and disposed of. I will say this: that from eighteen hundred and sixty-eight to eighteen hundred and seventy, the fees were required to be paid into the State treasury. The law says that this two and one-half cents per acre shall be disposed of as provided in section fifty-one of the Civil Code. This section says the Surveyor-General shall use such fees in procuring maps, paying for extra assistance, etc., and the residue, if there be any, shall be paid into the State treasury. The Code, it seems, contemplated that there might not be any fees to pay in, when it says, "if any."

Q.—This two and one-half cents is never mentioned in any of these sections as the fees to be collected by the Register?

Mr. Harding—I see by the Controller's report that you only made three payments during your term.

A.—Not for the first two years. I made one payment of fourteen thousand dollars in August, eighteen hundred and seventy-three.

Q.—If you have any further statements you wish to make to-night, you may proceed?

A.—As to the approval of applications, or as to applications remaining unapproved in the office, in my opinion, they are very few. All that were subject to approval were approved before I retired from office. There are a great many applications there that are in contest; a great many for lands that have not been surveyed; a great many filed there upon annulled locations—upon locations which were formerly annulled. Of course we were continually setting aside former annulments on school lands, and, in this case, I did not approve these subsequent applications without they were called for by the applicants, as great confusion was caused when we have titles issued to the same piece of land; the first annulment would be set aside through some error of the Court. That occurs in the Visalia Land District. When I came into the office I found between two and three thousand unapproved applications there which had not been approved, and which I went to work to approve, so far as it was possible for me to do. When there were no conflicts, and the records showed the land was clear, I approved them. There has been a very large volume of business transacted during my term of office. I think more applications were received during General Bost's term, but I think I issued more titles than he did.

Q.—The figures show that during your administration seven thousand one hundred and two applications were filed, and seven thousand eight hundred and twenty-eight during Bost's term. That would be seven hundred and twenty-six more issued under General Bost?

A.—Yes; I think there are a few more. In my statement I probably counted some swamp land. I think General Bost filed about one thousand two hundred more than I did.

Q.—Have you any further statements to make at this time?

A.—No; I think not.

Mr. Chapman—Have you any idea how many acres were patented during your term?

A.—My reports show the number. My reports were full as to the business done in the office.

Q.—Your last report is only brought down to the first of August?

A.—Yes; that is true.

Q.—I would like to ask you a question: When you went out of office did you make any report of the amount of fees received from the time you made your last report, on the first of August, up to the time you went out of office in December?

A.—Not up to that date.

Q.—You kept no account, no official account of the amount of fees you received and your disbursements?

A.—Not in the office. I have a statement of the amount of applications filed; the certificates of purchase show—the patents show the number issued. There is not twenty dollars ever received that cannot be accounted for.

Q.—The certified copies of papers?

A.—They are very few.

Q.—Now, how can it be ascertained how much you paid out for clerks, maps, etc., and how will it be possible for the State to know the amount of your receipts and disbursements from August to December, and for which time you never made out any report?

A.—I will make it up for the whole four years.

Q.—The law at present, as I understand it, at present does not require you to do this thing. It is merely voluntary on your part?

A.—I intended to make my report up to the date I went out of office, but I found I could not do it. I did make a report up to December sixth, as a schedule for a report, but did not send it to the Governor. I made up a statement as to the fees collected and disbursed.

Q.—I observe in your first biennial report that you begin your report from the time you went into office?

A.—I had no data to make a report any further back.

Q.—I infer from that that you had nothing to go on, no data from the last Surveyor-General?

A.—I had nothing to go on. As to the condition of the office when I went in and when I went out, I prefer that the clerks should testify. I have done a great deal of work. I have worked in the office many a night myself. My report shows that I decided one thousand one hundred cases myself—disposed of them—got them out of the way. I also did an immense amount of swamp land business. I had to see to all the swamp land matters, tell the amount of each survey, determine the amount to be paid to the County Treasurers, had to make maps for all the swamp land districts, so as to know what land they embraced, and all this required a large amount of work. My reports are very full, as to the amount of business done. I am willing they should stand as against any reports that ever came from that office. If you will look at my report you will see that I answered over ten thousand letters. Some of these took two or three days to get the data and answer a single one of them. Letters were filed in the office by the thousand. I made it a rule to always answer all letters promptly, and employed clerks to do it. As I said before, I can take the books and show why all those applications were not paid. There are applications there by W. R. Cantwell, filed on the strength of the decision of the Supreme Court in the case of *Sherman v. Buick*. I told Cantwell I would receive his applications, but I would not

receive his fee, and then the law was passed. These applications are dead.

Committee adjourned to meet on Monday evening.

MONDAY EVENING, March 20th, 1876.

Committee met in the room of the Sergeant-at-Arms. Present—Messrs. Harding, Crutcher, and Koutz.

General GARDNER on the stand.

General Gardner—First of all, I would like to make a statement in regard to the Amador mine, as I see it has been referred to in the previous testimony. When I came into office I found, among other things, an application for the east half of section thirty-six, upon which I afterwards learned was situated the Keystone mine. My attention was called to the fact last night, that a patent had been issued during my term. I have been to the records, and found that the patent was issued to one Gillett. When that matter happened, I found the protest on file, and went and talked to the patent clerk about it. He gave me the information about how the patent was issued. I myself never read the protest, and when my clerk called my attention to the protest he referred, also, to the fact that six months had elapsed since the filing of the protest, and it was always the practice of the office to issue patents when the time prescribed by law had expired. The Supreme Court of the United States, in the case of *Sherman v. Buick*, has decided that the grant of sixteenth and thirty-sixth sections is a grant *in presenti*, and carries everything with it.

Mr. Harding—Was that case of *Sherman v. Buick* decided when that patent was issued?

A.—I think not; that is my recollection of the matter. It had been decided when the certificate of purchase was issued, however. People claiming under a miner's title have generally had no claims under the State; did not desire to proceed under the State laws, but relied solely upon their patent from the United States. There was no evidence in my office to indicate it was mineral land.

Q.—Was there a patent issued from the United States at the time the State patent was issued for that land?

A.—I do not know. I remember the fact, that after the patent was issued by the State there was a contest pending in Washington, regarding the right of the State to sell mineral lands, in a case in the Marysville District—I cannot call the name of the case. The Secretary of the Interior and the Commissioner of the Land Office caused these patents to be issued. I think, in summing up, this Keystone mine question was brought up in Washington, and the Secretary of the Interior, in deciding the question, referred particularly to the fact that a rehearing had been granted in the case of *Sherman v. Buick*, and that he had no doubt the decision would be reversed. Then the Legislature, two years ago, passed a law in regard to the sale of mineral lands on the sixteenth and thirty-sixth sections. I say this merely to show the status of the State.

Q.—But all these matters have transpired since that patent was issued?

A.—Yes; but not since the certificate of purchase was issued. I simply made these statements to show the status of the State—that is all. And this winter they have also amended the former law, but I do not know how.

Q.—I don't know that I understood your testimony the other evening?

A.—As I say, the patent clerk, who has charge of those matters, called my attention to the protest, but I did not read it. But he told me that the six months had expired, and he did not see any contest, or any reason why the patent should not issue, and he issued the certificate. I did not know there was a protest on hand, but I afterwards found there was a protest.

Q.—The protest was filed in due time, was it not?

A.—That I do not know. But a protest can be filed at any time.

Q.—What action did you take in regard to the protest?

A.—None.

Q.—Did you ever notify the parties that there was a protest on file?

A.—I do not remember.

Q.—Did you take any steps towards granting a hearing in the case?

A.—None at all. It is not the practice of the office to grant a hearing simply on a protest.

Q.—What did you understand the object to be?

A.—To be to stop the issuance of title till the case may be sent to the Court. The office does not take any testimony. We have no contests in the office, except where by consent of all parties that they will agree to my opinion. This is only in smaller cases. They all file affidavits.

Q.—Who made the original application on which this Amador mine was patented?

A.—I think a man named Casey.

Q.—Of San Francisco?

A.—That I do not know.

Q.—Did he have attorneys to represent him?

A.—No; he never had an attorney. The certificate came by express from San Francisco, in the regular order of business.

Q.—Do you remember any other case where you issued a patent with a protest on file?

A.—There are many cases.

Q.—In which the case had not been transferred into Court?

A.—Yes, sir. That was the practice of the office when I came in. When a protest was on file six months, and another person came in and asked for a title, we disregarded the protest and signed the patent.

Q.—What would have been the effect of filing a protest, as you understand the law?

A.—He could file a protest, but he must take action within six months. The law does not allow him to tie up land. He was compelled to make some disposition of the protest within six months. The Codes changed that entirely. Under the present law there is no limit for a protest to run. When a man files a protest he asks to have it sent to Court.

Q.—I understand you to testify that you were not aware of the great value of the property at the time of the filing?

A.—No; I was not.

Q.—Would that knowledge have influenced you in any way?

A.—Yes.

Q.—Will you now proceed to make the statement you spoke of at the last meeting?

A.—Well, I have received, while I was Surveyor-General—my clerk who prepared my reports and got up these statements, has not got all the memoranda that he thought he had—that is, he cannot separate the certificates of purchase and the duplicates. The total amount received is sixty-three thousand five hundred dollars. It won't vary from that a hundred dollars either way. That runs back for four years.

Mr. Harding—That was the total amount received from the entire office?

A.—Yes; during my administration of four years.

Q.—Now, what disposition was made of the money?

A.—I have disbursed and paid into the State treasury twenty-five thousand and thirty-two dollars and ninety-seven cents. I have my references here. I paid to the Secretary of State seven thousand four hundred and thirty-eight dollars. I have vouchers here for all these amounts; I do not rely upon the Controller's statement. Then I paid my regular clerks and extra assistants out of the fees, as the law provides.

Paid Duncan Beaumont, an extra clerk.....	\$200 00
F. W. Byrod.....	150 00
C. F. Gardner.....	26 50
S. M. Luxbury.....	200 00
A. R. Shearer.....	300 00
Jas. O. Wanzer.....	5,185 00
J. R. McClintock.....	525 00
P. E. Oakley.....	1,150 00
Isaac Ayer.....	3,771 00
H. Wanzer.....	45 00
G. W. Whitlock.....	705 00
Arthur Jelly.....	375 00
J. C. Reed.....	1,594 00
John H. Burke.....	1,551 00
J. D. Haslann.....	5,140 00
Taylor, Redding, and Lee.....	210 00

Maps.

Paid to G. H. Wilder, for maps and certificates.....	426 00
James P. Stratton.....	207 00
J. R. Hardenburgh.....	1,497 00
Total.....	\$2,121 00

Q.—This is besides the appropriations. One thousand three hundred and twenty dollars should be added to that, should it not?

A.—Yes, sir. That makes three thousand four hundred and fifty dollars.

Q.—Well, that covers maps, extra assistance, and what else?

A.—Postage, expressage and telegraph, one thousand five hundred and nine dollars and nineteen cents; miscellaneous, three hundred

and eighty-three dollars and eighty-eight cents; traveling expenses, two thousand, two hundred and thirty dollars; and that I want to explain. The Legislature of eighteen hundred and seventy-two—three appropriated for my traveling expenses three thousand five hundred dollars, for the reason that it was known that I intended to go to Washington on official business for the State. I made three trips to Washington on this official business—one in connection with Sierra Valley; one in connection with swamp land below Sacramento, on the river, and different portions of the State; and the last trip I made, I was there four or five weeks altogether, seeing about the title to State lands, and while there I transacted considerable business for this office. I did not draw one dollar of the money appropriated by the Legislature, as I had money in my hands, in the shape of fees, and I paid out of the fees. Two years ago the Legislature had a bill before them appropriating three thousand dollars for my traveling expenses. At my own request, the Committee on Ways and Means cut it down to fifteen hundred dollars. Of that appropriation I used five hundred dollars last year, and two thousand two hundred and thirty dollars for the three years previous to that time, which also includes my traveling expenses here, in this State.

Mr. Koutz—You say the first appropriation was never drawn?

A.—I never drew a dollar of it; the records will show that. The large appropriation was made, and I could have used it all had I been disposed to travel.

Mr. Harding—The pay for extra assistance is something over twenty-five thousand dollars.

A.—Now, I will explain that. It looks like a large amount; still you must remember it is for the whole four years. I say that the average receipts of my office amounted to one thousand three hundred and twenty-two dollars. The expenditures of the office amounted to six hundred and fifty dollars—something about that. The total amount of disbursements was sixty-three thousand dollars. I paid out some money that I have no vouchers for, but not much. The amount seems large for assistance; but I will say this, that when I went into the office it was in a very bad condition. The books were not written up; thousands of applications were laying there unapproved; I had no Registers' certificates; I found no system at all; I found many of the books which had been in use since the commencement of the Land Office, and I believed that it was the best policy for the State to have these books rewritten. Mr. Haswell was employed to rewrite them. General Minis now also has a man employed in rewriting books. As to the extra pay to Mr. Wanzer, I will state that the Act of eighteen hundred and seventy-two created the formation and disposition of over two hundred swamp land districts. They had to be surveyed into swamp land districts; the interest to parties had to be computed; certificates had to be made out showing the amount due from each purchaser; maps had to be made for each district; and he worked a great deal nights, and I allowed him two hundred and fifty dollars a month, or one hundred dollars a month over and above his regular salary. He was there four years. He came into the office in December, eighteen hundred and seventy-one. I made a practice to employ, so far as I could, and so far as they were willing, the regular clerks in the office to do the extra work, because they understood it better than new clerks would be able to do.

Q.—Let me ask you, General, who were your regular clerks during your term?

A.—They were changed about. No five or six men ran through the whole four years.

Q.—The law allows you five regular clerks, does it not?

A.—Yes, sir.

Q.—Who were these parties?

A.—John H. Burke was a regular.

Q.—The same Burke mentioned in the extra pay clerks.

A.—Yes, sir; but not while he was employed as an extra. Twitshell was a regular clerk all through my administration. Ayer was a regular clerk all the time; he also did a large amount of extra work.

Q.—Who were the others?

A.—Mr. Wanzer and my deputy, Mr. Guptill, and A. P. Redding was a regular clerk during the term of my office.

Q.—The same Redding as mentioned in the list of extra clerks?

A.—Yes. His extra work was only ten dollars.

Q.—Were those all the regular clerks during your term?

A.—That is all I think of. There was some changing around. There was one more. A. J. Rhoads was a regular clerk for a while.

Q.—You had five clerks with a deputy?

A.—Five with a deputy,

Q.—Three in one office, and two in the other?

A.—I think so.

Q.—The law fixed their salaries?

A.—Yes; one hundred and fifty dollars a month for the clerks, and two hundred dollars for the deputy.

Q.—Now, this extra work you speak of; was not that to be paid for by private parties desiring work to be done?

A.—No, sir; I never did any extra work for parties. This extra work was for business that had to be done—for the purpose of bringing up this back work. It was a large amount. Haslann, all he did was to copy records; Burke approved applications. A great many old applications, which had lain there for years, were disposed of.

Q.—Do you think you were authorized to increase the salary of those clerks over the amount fixed by law?

A.—Yes, sir; when they did extra work. I did not believe when a man worked more than the regular time that he should be compelled to take the same pay as the one who did not work over time.

Q.—In that view of the case there would be no limit to the amount that might be paid by the Surveyor-General to his clerks?

A.—No, sir; I administered the affairs of that office as I would my own private business. I paid out just as little as I could. As you see, I could have carried more extra assistance if I had desired. This draughtsman that I had was an entirely new duty. He was there making maps. In that office we transfer from the regular maps to smaller maps.

Q.—Now, in regard to these plats. Mr. Wilder is a regular clerk in the United States Land Office. Did you deal with him instead of the Surveyor-General?

A.—I dealt with both.

Q.—Your maps, in order to be official, had to bear the seal of the Surveyor-General?

A.—Yes; they were simply copies.

Q.—Did they have no seal on them?

A.—The seal was always on.

Q.—Who had the authority to certify maps except the Surveyor-General?

A.—No one.

Q.—Would they, without the seal of the Surveyor-General, hold good in any Court of justice?

A.—No, sir; they were sealed.

Q.—What maps did you procure to send to Washington, that you have no record of here; and under what law do you send maps to Washington?

A.—The Commissioner of the General Land Office. I wrote to ask to have maps of the swamp lands of the State. The Commissioner said the maps had not been furnished from the United States Surveyor-General's office. Mr. Hardenburgh said his clerical force was so small that the State would have to furnish these maps. I either had to get these maps, or the land would not have been listed to the State.

Q.—Did you not know that as soon as the map is made in the United States office—as soon as the original plat is made—he is instructed to send one copy to Washington and file another in the local Land Office? Isn't that always done?

A.—Yes; with the regular maps, but these I speak of were not the regular maps.

Q.—Were they not maps made under United States surveys?

A.—They are maps showing the townships.

Q.—The Surveyor-General has no maps excepting those made by authority of the United States?

A.—That I do not know. Here is one of the bills. [Shows receipted bill.]

Q.—I see here thirty dollars. Are these maps thirty dollars apiece?

A.—Thirty dollars apiece, while regular maps only cost ten dollars.

Q.—What is the difference between a regular map and a map not regular?

A.—I have never seen one of these maps that I speak of; they were sent to Washington, direct.

Q.—Then you paid out this money for something the United States ought to have paid for?

A.—Well, that I do not know. When Hardenburgh, as I said, notified me that they could not make these maps on account of being pushed for help, I thought it better to pay for them and get the land listed. That is the view I took of it. People were waiting for their patents.

Q.—People are not entitled to patents till the lands are surveyed?

A.—No, sir. You will see there a list of the lands accompanying the maps.

Q.—Now, right here, on this page, I see, "copying maps, twenty-one dollars." Are not lists of all lands issued to the State sent to you from Washington?

A.—This is a different kind of a list. The list is sent from Washington and certified by the Secretary of the Interior.

Q.—Now, what are these other lists you spoke of?

A.—These are lists accompanying the lists of lands sent from Washington.

Q.—Have you vouchers for all these extra maps?

A.—There are only two of them.

Q.—There seems to be three maps here, by this statement?

A.—Yes, there are; that last is land around the mouth of the Sacramento River.

Q.—There is twenty-one plats—two hundred and ten dollars; and three others. For one you seem to have paid thirty dollars—thirty dollars for the township plats?

A.—Yes, sir.

Q.—Have you any of these plats in the office?

A.—No, sir.

Q.—They only embrace one township, do they not?

A.—That I do not know.

Q.—There are four of them. There are twenty-one, at two hundred and ten dollars?

A.—That is a mistake in the figures.

Q.—Seven maps at thirty dollars apiece (under date of April seventh, eighteen hundred and seventy-five), amount to two hundred and ten dollars; and three other maps at thirty dollars apiece (April twenty-sixth, eighteen hundred and seventy-five), amount to ninety dollars—making in all three hundred dollars?

A.—It is more than that; it is three hundred and eighty-six dollars, with copying lists.

Q.—Well, now, deducting three hundred and eighty-six dollars for these eleven maps and copies of lists, that were sent to Washington, from the three thousand four hundred and fifty dollars expended for maps, would leave three thousand and sixty-four dollars for maps in your office?

A.—There is something more yet to be taken out.

Q.—Well, what are the other items?

A.—Well, fourteen dollars for two copies; certified copy of an affidavit, five dollars; that would be twenty-four dollars. Here is another of six dollars, another of nine dollars, another of ten dollars for certificates for sixteenth and thirty-sixth sections, in grants—making a total of forty dollars. Here is another item, and here is about two hundred dollars altogether, which would reduce the map account to about two thousand eight hundred dollars, for maps that are in this office.

Q.—That would make these maps come to more than ten dollars apiece, would it not?

A.—I do not think the account of the number purchased by me, given in evidence, is correct. It is very difficult to know what maps were there, and what were not. Every map paid for there was received in that office, and are on file there. I bought no plain maps at all.

Q.—Do you say this count of two hundred and twenty-two maps is not correct?

A.—I do not think that can be correct. I did not count the maps on file there when I went out of office. I had nearly all the maps in the office rebound, and there are many in the office that I bought that are not bound. Every map mentioned in my bill was bought, and they are still in the office.

Q.—Two hundred and twenty-two maps, at ten dollars each, would come to two thousand two hundred and twenty dollars?

A.—There were some skeleton maps also.

Q.—It was testified before the committee that these skeleton maps did not cost more than one dollar apiece?

A.—I paid more than that for them. There is no competition that regulates the price of these maps according to their value or cost. I had to procure them where I could. When I came into the office I was informed by Mr. Twitchell that ten dollars was the usual price for these maps. I knew of individuals who have bought maps, and I never knew them to get a map for less than that amount. I suppose a man could make a contract with these people, and get them much cheaper. I did not want a large number, and I only bought just what I wanted. It would cost twenty-five thousand dollars to buy copies of all the maps that are made, and they are not all needed in the Surveyor-General's office. I only bought just such maps as were actually needed.

Q.—Don't you think that is a pretty steep price to pay for maps?

A.—No, sir; there is more work on most all the maps I bought than there is on ordinary maps. Ordinary maps can be made for five or six dollars apiece. Sometimes these maps are in part swamp land, and sometimes three or four grants cut right into the plat.

Q.—What was your judgment as to thirty dollars for maps?

A.—I knew they were not regular township maps.

Q.—Was Mr. Wanzer a clerk in your office during your entire term?

A.—Yes; except a few days at the first of the term.

Q.—And drew a regular salary from the State treasury of one hundred and fifty dollars per month?

A.—Yes, sir.

Q.—You say you allowed him one hundred dollars a month extra?

A.—Yes, sir.

Q.—I see here, according to your statement, that you paid him five thousand one hundred and eighty-five dollars. What is that for?

A.—As I said before, he did not go on the pay-roll for some time at first. I think he went on to the pay-roll at the beginning of the fiscal year—first of July—when the appropriations came in.

Q.—What about this Mr. Ayer? I see by your statement that he was allowed three thousand seven hundred dollars extra pay?

A.—He went on to the pay-roll at the same time Mr. Wanzer did. He has not done as much extra work as Wanzer.

Q.—Here is Gardner, drew twenty-six dollars and fifty cents.

A.—Yes; he was not a regular clerk; but that twenty-six dollars and fifty cents is for extra work.

Q.—Did he not draw warrants from the State Controller?

A.—No, sir; he drew extra pay.

Q.—Here is Haslann's five hundred and forty dollars extra pay?

A.—He never was on the pay-roll. He was there two years. He was the man employed to write up our records and books.

Q.—Then, according to your own statement, you paid over twenty-five thousand dollars for extra assistance, three thousand dollars for maps and certified copies, etc., one thousand five hundred dollars for postage, expressage, etc., two thousand two hundred and thirty dollars traveling expenses. What was the appropriation for traveling expenses?

A.—Five thousand dollars, ending with the fiscal year last June.

Q.—How much of that appropriation did you draw?

A.—Only five hundred dollars for the last year.

Q.—How much of the appropriation for postage?

A.—The first year I think they made a mistake. I think they only appropriated for one office—only for one office for the first two years. I think the appropriation was five hundred dollars.

Q.—Now, what is the amount stated in your reports as expended for extra assistance and maps?

A.—I must state that in my report is an error caused by the clerk, who got the same from Mr. Wanzer. The discrepancy, or the error, was not discovered until after the report had been printed. As it did not affect the amount of money paid into the State treasury, which was correct, we did not change it.

Q.—Do you recollect that amount?

A.—Twenty-five thousand dollars, or something near it, for the first, eleven thousand dollars for the second, and the last payment was ten thousand dollars, for extra assistance and maps. But the last one was wrong—a mistake—as I said. The correct amounts were given to the clerks, who, in some way, got them as they stand in the report, and I did not discover the mistake until after the report had been printed, as I stated.

Q.—There was an appropriation during your term, amounting to seven hundred and twenty-five dollars—did it not?

A.—That will show.

Q.—I have the amount in my hand. Was that appropriation drawn by you?

A.—Yes, sir.

Q.—Here is an item of three thousand five hundred and sixty-three dollars more, for binding books. Was that drawn?

A.—Yes, sir.

Q.—For the purchase of maps, one thousand three hundred and twenty dollars. Was that drawn?

A.—I think it was.

Q.—For copying maps you drew from the treasury one hundred and eighty-five dollars more. Was that correct?

A.—I think so. The vouchers which I have will show.

Q.—For postage, expressage, etc., there was one thousand one hundred and thirty-seven dollars drawn from the State treasury?

A.—Some of that was drawn before my time.

Q.—No, this report from the Controller shows the actual amounts drawn during General Gardner's time. Omit sums allowed Hardenburgh, Stratton, and Hastings. Now, this further leaves one thousand one hundred and thirty-seven dollars and nine cents, which was also drawn, was it not?

A.—I suppose so.

Q.—And the further sum of two hundred dollars, for binding books?

A.—Yes, sir.

Q.—Traveling expenses, five hundred dollars?

A.—Yes; that is right. That is the only money I ever drew for traveling expenses. I will say here that this expense of Hastings should not be charged to me.

Q.—That is not charged to you. Well; then, the amount of these appropriations should be deducted, should they not, from the sum total embraced in your testimony to-night, for extra assistance, etc.?

A.—No, sir.

Q.—Why not?

A.—This is entirely separate from that. This money was taken from the State treasury.

Q.—Do you mean to state that you paid out for expressage and postage one thousand five hundred and ninety dollars, exclusive of the one thousand eight hundred and sixty-two dollars and thirty-six cents drawn by virtue of the appropriations?

A.—Yes, sir.

Q.—Well, have you no account, no vouchers for this one thousand eight hundred dollars?

A.—Yes, the vouchers are with the State Controller.

Q.—With the Controller?

A.—They are.

Q.—Then the sum total is some thirty-three thousand or thirty-four thousand dollars?

A.—It can be figured up.

Q.—Now, here is the first appropriation. Now, you say that does not include any portion of the one thousand five hundred and eight dollars testified to?

A.—No, sir. I will say this, in connection with the money paid out for postage and expressage, that the office, under my administration, had a very large correspondence. We sent away a great many packages by express, and a great many by mail, to County Treasurers, Assessors; wrote a great many letters, and very few of the letters took less than six cents, and the appropriation was used up very fast.

Q.—Now, in this Controller's statement there is an item for clerk hire in the Surveyor-General's office of twenty-five thousand two hundred and forty dollars, and for clerk hire in the other end of the office, fourteen thousand one hundred and thirty dollars, making a total of thirty-nine thousand three hundred and seventy dollars for clerk hire. Is that amount drawn and paid for clerk hire exclusive of the twenty-five thousand dollars testified to by you as being paid out of your fees for clerk hire?

A.—Whatever amount is given in the Controller's statement is exclusive of this amount I give you.

Q.—Then that would be sixty-four thousand three hundred and seventy dollars for clerk hire?

A.—Yes, sir.

Q.—Did you deem it unnecessary to keep any official record of the disbursement of twenty-five thousand dollars of the State's money?

A.—I did keep the account by the vouchers.

Q.—Not in the office, are they?

A.—No, sir. When I went away, I took these vouchers with me, as I did the receipts of the Secretary of State.

Q.—It has been testified to before this committee that applications have been filed in your office for certain sections of land, and afterwards other lands inserted in the applications—the description of the land changed without a new affidavit being required.

A.—There never has been, to my knowledge. That cannot possibly be.

Q.—You never authorized any such proceedings?

A.—No, sir; that cannot be done. I noticed something of that in the testimony. I read the testimony in this way: that when applications were returned they might be sent back with other land inserted.

Q.—It has been testified to before this committee that Mullen & Hyde had filed on certain lands in Mendocino County; that their applications were signed and verified by "dummies;" that afterward, and while these were on file, subsequent valid applications were filed for the same land; the person filing them—Mr. Houghton—was informed by you that he was about to file a protest against the approval of the first applications; that he was informed by you that no protest was necessary; that the first application could not be approved, for the reason that a conflict was created by filing the second application, and that afterwards these first applications were approved, before the expiration of the sixty days fixed by law, and certificates of purchase issued to Mullen & Hyde. Please give us some explanation.

A.—I will say this: that when an application comes into my office I have no means of knowing which of them are made by dummies, and which of them are valid applications. I have no means of knowing anything about that. Mr. Houghton came into my office with some applications to file; he went to the clerk and got him to come with him to the office before office hours, and he was permitted to examine the books and records. When I came to the office, at the usual time, I found him there. He had these applications with him. He never said a word to me, or intimated to me in any way, about filing any more protests than he did file. He did file one protest. Houghton never did, while I was in that office, ask my advice on any proposition; but on the contrary, if he had asked me, I certainly would have told him it was necessary. The applications of Mullen & Hyde had been on file more than sixty days, and were subject to approval. Those against which he did file a protest were not acted upon, for the reason that the protest prevented that. When the protest was found to be on file, no approval was issued. Mr. Houghton had very few words with me. He simply handed me the applications and said he was in a very great hurry, as he was going away, down to Visalia, or the southern portion of the State. He said nothing to me about filing any protest. He handed me the applications, and the protest which was filed was among those applications; and that was all that passed before he went away. I did not read it while he was there. He told me—Houghton did—that my clerk, Mr. Wanzer, had come in with him, and had told him he need not file any protest. Mr. Wanzer denies that now. He knew the fact that it was necessary to file a protest in all cases. The records will show this: that both the affidavits of Mullen & Hyde and of Houghton were taken before the same Notary; and I knew no more about Mullen & Hyde's applications than I did about Houghton's. I knew none of the parties, except his own application, and that applied for lands where he had filed a protest.

Q.—You state that you had no conversation with Mr. Houghton whatever?

A.—None whatever. He never asked my advice on any proposition. He did a great deal of business in swamp lands, but he did most of the business with the other side of the office, and he never transacted any business with me except that one time.

Q.—Look at this paper [shows paper] and see if that is a correct description of the location you refer to?

A.—That I cannot state from memory. I presume it is correct; he probably got it from the records.

Q.—He testified that it was correct?

A.—I presume it is.

Q.—He testified that he had a protest in his pocket ready to file, and that you advised him that, under the practice of the office, it was not necessary to file any protest, as the filing of his application created a contest?

A.—Nothing of the kind. He went down to the office Monday or Tuesday, and I met him in the office. He spoke of his applications, and I said, "There are no protests on file." He said, "I have brought them with me now to file."

Q.—Was it the practice in your office to approve applications where there was a conflict existing?

A.—Where there were conflicts and no equities.

Q.—And where there are equities?

A.—There are blank places left in the affidavit for writing in sworn equities. When there were no equities and no protest on file, I approved the first application if it was legal.

Q.—It appears from his testimony and the records referred to, that Mullen & Hyde's original applications for this land in Mendocino County were filed on the fifth of February, fifth of June, ninth of July, and eleventh of September, eighteen hundred and seventy-three?

A.—Yes, sir.

Q.—That they made another filing November eleventh, eighteen hundred and seventy-four, numbered six thousand one hundred and thirty-seven to six thousand one hundred and eighty-five and six inclusive, and Mr. Houghton put in his filing on the thirteenth of November, eighteen hundred and seventy-five, for the same land. On the sixth day afterwards, the nineteenth of November, you approved Mullen & Hyde's applications?

A.—Yes, sir.

Q.—And five days afterward you issued certificates of purchase?

A.—Yes, sir.

Q.—Now, why was it that these applications that were put in early in eighteen hundred and seventy-three had not been approved?

A.—The principal reason was that the lands had not been listed to the State. Another reason was a prior application made by other parties.

Q.—Was it necessary, prior to eighteen hundred and seventy-three, that lands should be listed before being approved?

A.—I suppose it was not, for the State had been selling these lands before she got title.

Q.—There was no law at that time?

A.—No law directing me to approve them. They were subject to approval, if they could be approved. When I referred to the applications being on file sixty days, I referred to Mullen & Hyde's.

Q.—They were on file two and a half years?

A.—Yes, sir. It is the custom of the office that when a purchaser and party in interest brings in approvals with the Treasurer's indorsement on them, the Surveyor-General can issue certificates upon them simply on the monthly statement of the County Treasurers. You buy a piece of land in San Mateo County; you get the indorsement of the County Treasurer, and I will issue a certificate on that indorsement.

Q.—It has been testified to before this committee that good lieu

lands have been stolen from applications on file in this office, and inserted in subsequent applications, and thereby invalidated the first.

A.—Nothing of that kind has ever been done to my knowledge. When I have ever allowed lieu to be used a second time, it was only where I was satisfied the United States had sold the land.

Q.—Could that possibly have been done in your office, unless some one in the office was a party to it?

A.—Well, it might have been done. This office did not have charge of the selection of the lieu lands until eighteen hundred and sixty-eight. Previous to that time it was done by State Locating Agents. When they turned over all their lands, I found that lieu had been used as free and clear, that was not so in fact. When such an application was sent to Washington, they would notify me that the lieu was not good. In that case I would state to the party that he would have to amend his application, or the State would not get him a title.

Q.—Did you have any conversation with Mr. Houghton subsequently to issuing the certificate to Mullen & Hyde, with reference to the fact of your having approved them?

A.—Yes, I think, perhaps, I did; I think I said something about it when he told me he brought a protest to file.

Q.—Did you state to him that these applications were approved by a clerk in your office without your knowledge, and against your wishes?

A.—I did not, from the fact that it was the custom of the office to approve applications when there were no equities on their side.

Q.—Is not that unusual, that these applications should have remained on file upwards of two years, and immediately, as soon as new applications were filed, they were approved.

A.—No, sir; you will observe that there were applications by two different parties, and some by three different parties, for the same land.

GEORGE H. ROBINSON, SWORN.

Mr. Harding—Did you make out this statement, marked "Exhibit G?"

Answer—Yes, sir.

Q.—Is that correct?

A.—Yes; to the best of my knowledge.

STATEMENT

Of certificates of purchase issued during the years commencing December 5th, 1867, and ending December 5th, 1871, also application and patent fees.

School land interest certificates.....	3,298
School land principal certificates.....	65
Swamp surveys interest certificates.....	1,147
Swamp surveys principal certificates.....	142
Tide land interest certificates.....	72
Tide land principal certificates.....	60
Warrant locations certificates.....	6
Five thousand acre grant certificates.....	47
Public building certificates.....	3
Seminary lands certificates.....	17
Total	4,857

Four thousand eight hundred and fifty-seven certificates at three dollars each.....	\$14,571 00
Seven thousand eight hundred and twenty-eight filed and paid for at five dollars.....	39,140 00
Patent fees.....	8,128 15

Total \$61,839 15

Applications filed and not paid for.....	2,664
Applications filed and paid for.....	7,828

Total number of applications..... 10,492

WEDNESDAY, March 22d, 1876.

Committee met in the State Land Office. Present—Messrs. Harding, Crutcher, and Koutz.

J. W. SHANKLIN, SWORN.

Mr. Harding—Mr. Shanklin, what is your business, or what has it been during the past four or five years?

Answer—Have been acting as agent, in connection with land matters, obtaining titles for parties, either from the State or the United States. For the past year I have been in California.

Q.—You were formerly Register in the United States Land Office?

A.—Yes; both Register and Receiver at different times. I was connected with the United States Land Office.

Q.—Within what period?

A.—From eighteen hundred and sixty-four, to June first, eighteen hundred and sixty-nine. I was part of the time Receiver, and part of the time Register.

A.—You are, therefore, particularly familiar with the laws of the State and United States with reference to the disposition of the public lands?

A.—I believe I am.

Q.—Now, you will please answer the first question?

A.—My knowledge in relation to lieu lands began as early as eighteen hundred and sixty-nine, and from that time up for several years; such operations were confined to taking from selections which were really defective, either as to legal points or otherwise, or lands that could not be obtained for the State on account of being covered by Spanish grants, or valid preëmption claimants, which would prevent the State from taking title under the Act of eighteen hundred and sixty-six. And so far as those transactions occurred during that period, I did not know of any instances where the basis of selection was taken from a good and substantial selection used as the basis of other and new selections, though such may have happened. In the last three years I have not had as much to do with lieu lands as I had prior to that time, but several instances have come under my observation where good selections were interfered with, so far as the basis was concerned, on sixteenth and thirty-sixth sections, upon which they were based, was transferred to and made the basis of other selections, thereby invalidating the first selections, as far as could be done by the action of an officer.

Q.—That occurred in the Surveyor-General's office?

A.—I cannot say who did it, but simply that it has been done.

Q.—Could it have occurred anywhere else?

A.—I do not think it could. Whether it occurred with the knowledge of the Surveyor-General, I do not know. It might have been done by some of the clerks in the office without his knowledge. One instance came to my notice about two weeks ago, and related to land which had been sold by the State some years ago, as unsurveyed land.

Q.—What was the number of this location?

[Here witness selects books and searches the records.]

A.—The application is numbered five hundred and four, San Francisco District, township eight south, range one and two west, Mount Diablo meridian, southeast quarter of section thirteen, and southwest quarter section eighteen, based upon east half of section thirty-six, township thirty south, range eleven east, as lieu. Now, I wish to show that this second application was sent on to Washington, where the first application remained and is still pending. The conflicting application is numbered four thousand eight hundred and forty-two, and is by Henry R. Williams, approved November thirtieth, eighteen hundred and seventy-five, and that the lieu land upon which this is listed to the State of California is the east half of section thirty-six, township thirty south, range eleven east, being the same lieu upon which Nordgren's application was based.

[Here witness produces from the archives of the Land Office the original application, and verifies his statement from the indorsement thereon.]

Q.—How did these get there?

A.—They would seem to have been made subsequently to the filling in of the original application, for the lands described in the original applications have all been erased, and the descriptions based thereon are without date.

Q.—Do they appear to have been placed there subsequently to the filing?

A.—I judge so, by the appearance of the document.

[Here the reporter is shown the application, which seems to have been doctored and scratched up, and pasted over with supplements, till it hardly resembles an application.]

Q.—When was the first application filed?

A.—Nordgren's was filed in this office April twenty-fifth, eighteen hundred and sixty-three, approved June twenty-seventh, eighteen hundred and sixty-three, and the certificate of purchase issued August nineteenth, eighteen hundred and sixty-four. The second one, that of H. R. Williams, was filed June fourth, eighteen hundred and seventy-two; approved November thirtieth, eighteen hundred and seventy-five. It does not appear by the books that any certificate of purchase has been issued upon this last, as far as I can see.

Q.—I understand you, then, that Nordgren's application had not only been approved, but a certificate of purchase issued for the land before this lieu was stolen out of his application?

A.—Yes, sir; it had been approved some eight years before. The next transaction of this character which came under my observation was in relation to the south half of section ten, township three south, range nine west, San Bernardino meridian. (I will state here to the committee, that these instances have simply come under my notice in the course of my business, and that I have never made any effort to find them out, or discover the extent of these transactions.) The next application is that of John G. Thwing, numbered two thousand four hundred and seven; filed March first, eighteen hundred and

sixty-nine; approved March ninth, eighteen hundred and sixty-nine, and the certificate of purchase issued June twenty-second, eighteen hundred and sixty-nine; based upon the south half of section sixteen, township eleven south, range one east, Mount Diablo meridian. That this same basis, or lieu as it is technically called, was subsequently used in another application, number three thousand six hundred and sixty-nine, filed by Abbidy, August twenty-third, eighteen hundred and sixty-nine; approved March first, eighteen hundred and seventy, and listed to the State of California January twenty-ninth, eighteen hundred and seventy-six. These are what have come directly under my own observation of this character.

Q.—The first application in each case, of course, failed, because the lieu was taken and inserted in the second?

A.—I cannot say as to that. As to the first case, that of Nordgren, the case is still pending in the United States Land Office, and, unless it may become good under the Act of eighteen hundred and sixty-six, regardless of what the basis of selection may have been, it will have to fail on account of the abstraction of the lieu from it. But there is such a thing as the approval of a selection made prior to the Act of eighteen hundred and sixty-six, of this character, notwithstanding the loss of the good lieu from the selection; but in such a case, if they are approved, they will ultimately have to be accounted for by the State.

Q.—And the first parties will get the land in the end?

A.—Yes; though the State will have to account for an equivalent in lieu lands to the United States. In reference to the application of Thwing, that will undoubtedly fall to the ground, unless another basis of selection is provided by the State. There is no remedy for it.

Q.—I understood you to say you made no effort to find out the extent of transactions of this kind in this office?

A.—None at all, sir.

Q.—These merely came to our knowledge in the course of your business with the office?

A.—Yes, sir.

Q.—There is evidence before this committee to the fact that applications have been made here by parties, and have been returned to them and their filings refused, on some alleged defect of the lieu, and subsequently, other parties have put in applications containing that same lieu, which applications would be approved. In the course of your practice have you noticed any such transactions?

A.—Some two years ago, I desired to make some amendments for the purpose of perfecting some selections already made, which were defective as to the lieu, and with a view to that I made an examination as to lieu lands in San Bernardino meridian, which had not been used. I left a memorandum in this office of that which I considered had not been used, for which the State was entitled to indemnity. I remained here some time, and paid no further attention to it. A few weeks after I found that all, or nearly all, of that which I had designated for the correction of my applications, was used as the basis of selections in Los Angeles and San Diego Counties, and recently I made application to have some lieu released from an application here for the purpose of correcting another application, the first one not having been filed in the United States Land Office, and I was informed that it could not be released without the

abandonment by the applicant of his selection in which this lieu was used. I then went to the applicant to inform him of the fact, and he said he would examine and see whether he desired the land, and before he had made up his mind as to what he would do I found that the same basis of selection for lieu land had been used in another application, and no abandonment was ever made of the first.

Q.—Who was that applicant?

A.—The first was Cammet.

Q.—Who was the other one? Who put on the second?

A.—I do not know, sir.

Q.—Who were the attorneys?

A.—The records will show. It was portion of the west half of southwest quarter of section thirty-six, township one south, range one west, Mount Diablo meridian. [Witness here examines the records of the Land Office, and his answer to the question is: Mullen & Hyde.]

Q.—Who were the attorneys for the first applicant?

A.—Mullen & Hyde, attorneys for J. H. Whitman.

Q.—Do the numbers not appear on the maps?

A.—I should not expect it to appear on the maps.

Q.—The records of the office show no change in the lieu, while the listing does show a change in the lieu?

A.—Yes, sir.

Q.—When did you ask to use that lieu in this office?

A.—I think, somewhere about October or November, eighteen hundred and seventy-five.

Q.—And was refused?

A.—Refused, unless I obtained an abandonment from Cammet, which I endeavored to do, and before I did do it I found it had been used elsewhere.

Q.—Then the lieu was lost to you?

A.—Yes, sir. The use of lieu belongs wholly to the Surveyor-General.

Q.—When an application is filed here it should be approved, and the lieu not allowed to be taken out and used by some other applicant?

A.—Yes, sir; the lieu should never be taken from it.

Q.—I will ask you what the practice has been in this office during the last four or five years, in regard to making you pay when you filed an amended application?

A.—I do not recollect of but one instance where payment was not made for amendatory applications, and I think, in that instance, the filing of the first had not been recorded before the amended one was offered.

Q.—Do you recollect certain swamp land cases which Surveyor-General Gardner went to Washington to attend to, and when he got there, instead of pressing the State's claim he abandoned the State's interest?

A.—I heard of such a case when I was in Washington, in eighteen hundred and seventy-four.

Q.—Who informed you?

A.—The Chief Clerk of the Land Office, Mr. Curtis, or else the Chief of the Swamp Land Division, Mr. Kilpatrick. As to my own knowledge, I know nothing of it.

Q.—Had it occurred recently, before you were in Washington?

A.—Only a month or two before. I was there in eighteen hundred and seventy-four.

Q.—Do you know of any case, during the last four years, of the Surveyor-General going to Washington to prosecute title to the State?

A.—I do not; and did not know that he went for that purpose the first time.

Q.—In the course of your business you are in communication with the General Land Office at Washington, and know of the principal cases sent there from California?

A.—I have known a great many of them, and especially those between the San Francisco Land District—those with reference to swamp and overflowed lands as between the State and the United States, and I have attended to a great many of these swamp land cases myself in Washington. I have been there three times myself; twice in eighteen hundred and seventy-one, and once in eighteen hundred and seventy-four, and have some land cases pending there now.

Q.—Then you know of no case in which the Surveyor-General, during the last five years, has prosecuted the State's claim in Washington personally?

A.—No, sir.

Mr. Koutz—Would you probably have known if such had been the case?

A.—I do not know that I should, unless I had been connected with the case in some way. But I have yet to learn that any State officer is authorized to go to Washington to attend to cases in behalf of the State.

Mr. Harding—The State had a special agent whose business it was to reside there?

A.—Up to the last session of the Legislature.

Q.—Who was that agent?

A.—E. O. F. Hastings.

Q.—I understand there is no law authorizing the Surveyor-General to go beyond the limits of the State

A.—I never heard of any, sir.

Mr. BURKE, recalled.

Mr. Harding—Mr. Burke, the Surveyor-General testified before the committee the other evening that he had paid you one thousand five hundred and fifty-one dollars as extra compensation. What are the facts in regard to that?

Answer—The amount he states he has paid me is correct. From April first, eighteen hundred and seventy-two, up to May first, eighteen hundred and seventy-three, I was a clerk in the office—paid out of the fees of the office, and not out of any appropriation made by the Legislature. During that time I received one hundred dollars a month salary, and no more. During that year and two weeks I did a great deal of over work. For the first three weeks I averaged nearly eighteen hours a day, making out delinquent lists, and frequently during the year I did a great deal of over work, many times working until twelve and one o'clock at night, for which I received the sum of three hundred dollars extra pay, making in all, less than one hundred and twenty-five dollars per month for the entire year. On May first, eighteen hundred and seventy-three, I was put on as a

regular clerk at a salary of one hundred and fifty dollars a month, payable out of the appropriations made by the Legislature. Since that time I have never received one cent extra compensation over and above the one hundred and fifty dollars a month, the regular salary, and that I drew from the treasury, although I did do a great deal of work out of time. I state this merely that the public may not be under any misapprehension as to what I received at that time. I do not know that General Gardner intended to make such an impression, but by the way he stated it, it might be taken that I got that amount as extra compensation over and above my salary of one hundred and fifty dollars a month.

Q.—Who was the oldest clerk in the office during those four years? Who had been connected with the office longest?

A.—Mr. Twitchell was the only man that was not a new clerk in the office; the only man who had been a clerk before.

Q.—Did he do any extra work, and to what extent?

A.—He was in the habit of doing a great deal of work outside of office hours. He was not in the habit of coming to the office evenings, but he often worked long after the office had been closed for the day.

Q.—Do you know of his getting any extra compensation?

A.—I do not.

Q.—Do you know of any clerk getting any extra pay?

A.—I think that Ayer and Wanzer did considerable extra work, for which, I think, they got extra pay.

Q.—Do you know any others?

A.—I do not think of any except these two.

Q.—There were five regular clerks in the office?

A.—And one deputy.

Q.—The clerks drew a salary of one hundred and fifty dollars per month, and the deputy two hundred dollars per month?

A.—Yes, sir.

Q.—Now, what was the extent of this extra assistance during these years?

A.—I think that the extra assistance averaged two clerks, and perhaps a little more at times.

Q.—Averaged two extra?

A.—Yes, I think so.

Q.—Now, about what salary would they receive?

A.—I do not know what salary they got.

Q.—Not more than the regular clerks?

A.—I only got one hundred dollars a month for the first year. I do not know of any other working for less. I suppose they all got one hundred and fifty dollars.

Mr. TWITCHELL, recalled.

Mr. Harding—Please state what you know about the services of Mr. Burke, in his connection with this office.

Answer—He was in one office and I in another, but, of course, he was frequently in my department looking at records, and I am of the opinion that during the time he was in this office that there was no other clerk worked more hours for the State, in hours and out of hours, extra time included—that did more work for the State than Mr. Burke did.

Q.—Do you know anything about those large envelopes which

remain in this office addressed to Mullen & Hyde, San Francisco, and marked "official"?

A. [Witness here exhibits about two thousand printed envelopes, addressed as above]—These came from the State Printer, under the head of stationery.

Q.—How many are there in the office?

A.—I think there are about five hundred in each box, and there are four of those boxes.

Q.—These are the remnants of some larger quantity?

A.—They have been in use for two years very extensively.

Q.—You say they were printed in the State Printing Office at the expense of the State?

A.—I think so, sir; all such things were printed by the State.

Mr. Koutz—Do you know whether this has ever been done for other parties than Mullen & Hyde?

A.—I do not know of any. These were printed for the use of the office—not for Mullen & Hyde.

Q.—What I meant was, whether the office was in the habit of printing envelopes for those who did business with the office?

A.—I have never seen any other of that character in the office.

Mr. Harding—Have not other documents besides envelopes been printed for Mullen & Hyde in the State Printing Office?

A.—Not that I am aware of.

Q.—Any deeds?

A.—Not that I know of.

Mr. Crutcher—Why should such documents be printed for Mullen & Hyde more than anybody else?

A.—I suppose these were printed for the convenience of the office, the extensive business with that firm making it desirable to have them printed. I have never seen any other of that character except these envelopes.

Mr. Harding—I understood that deeds were also printed in the State Printing Office for the convenience of Mullen & Hyde, in making out deeds for their dummy locations; have you any knowledge as to that?

A.—I have seen such deeds in this office. I have seen Mr. Wanzer have such blank deeds; I think he showed me one, and spoke something about it, but where it was printed I do not know. He had a bundle of them.

Q.—You have been connected with this office for about how long, Mr. Twitchell?

A.—Altogether, I have been in the office thirteen or fourteen years.

Q.—During that time have you ever known any such transactions as this, as printing documents in the State Printing Office for private parties?

A.—No, sir; I never have.

Q.—There never has been any such practice before?

A.—This is the first instance of the kind I have ever known.

Q.—I wish you would state all you know with reference to extra assistance in this office during General Gardner's term of office?

A.—I believe I stated all I knew about that in my former testimony. I said that it would average two extra clerks during the entire term. Some periods it would probably average more.

Mr. Koutz—In making this average, do you include the extra time

put in and paid for, by the regular clerks, and the time occupied in rewriting the old records?

A.—Yes; of course that includes the clerk engaged in that business.

Q.—Do you also include the extra hours by the regular clerks?

A.—I do not know anything about that.

Q.—You do not know how much that amounted to?

A.—No, sir; I did not know that any one ever received anything extra for extra hours.

Q.—Well, General Gardner testified that he paid considerable money to the regular clerks in the office for extra hours, and that he preferred employing the regulars to outside parties.

A.—When I testified before, I did not know anything about these claims for extra compensation. I said there were as many as two extra clerks on an average all the time. I did not know anything about these claims for extra work. The first knowledge I had was through the newspapers since this investigation began.

Mr. Harding—You do not know it now, do you, that any extra work was done, or paid for?

A.—I presume there was, as it is charged as extra.

Q.—You did not find out through the four years you were here?

A.—On one or two occasions I saw Mr. Wanzer take a book home with him, and heard him speak something about writing it up, but that is all.

Q.—You also worked some extra time, didn't you?

A.—I have at different times done a great deal of work out of hours. There has been a very large amount of work done in the office out of office hours, because we did not always have time to finish up during regular office hours.

Q.—You worked before and after office hours during the last administration?

A.—I suppose I did. I was always here at nine o'clock in the morning, and sometimes in the summer as early as eight.

Q.—Did he ever pay you anything for this extra work?

A.—No, sir; I never expected any.

Q.—Do you know, of your own knowledge, of any other person in the office that General Gardner paid anything extra?

A.—Not to my own knowledge.

Q.—Did you not work as many hours as Mr. Wanzer?

A.—I had supposed so all the time.

Q.—Until now?

A.—Until I saw mentioned in the papers the large amount he had been allowed for extra services, I had supposed I had put in more hours than he.

Q.—Was not that a fact?

A.—I do not know, sir. He might have been here while I was at home in bed.

Q.—And you received no extra pay for your work?

A.—No, sir.

Q.—How about Mr. Burke—did he put in as much time as Mr. Wanzer?

A.—As far as my knowledge is concerned, I should think he put in a great deal more.

Q.—During the last year of Mr. Burke's time, and while he was a

regular clerk, did he perform as much labor as Mr. Wanzer in the office?

A.—As I said before, I think, during that time Mr. Burke worked more hours for the State in the office, than any other clerk connected with the office.

Q.—You did not know of his receiving any extra pay?

A.—I know nothing about it, except what I have seen in the papers.

Q.—How with regard to Ayer. Did he perform more services than Burke or yourself?

A.—In regard to night work, I do not know what amount of work they might have performed at night, as I was not in the office at the time.

Q.—Was there any clerk in the whole office who performed more work than you or Mr. Burke?

A.—This work may have been more valuable.

Q.—I do not speak of quality, but of quantity. You were asked by Mr. Koutz in regard to copying old records. What records do you refer to?

A.—Transcribing old records of the school lands, and also, some swamp lands.

Q.—What records of swamp lands were transcribed?

A.—All of Tulare County, and a part of Yolo County.

Q.—Have you got the records of Tulare County to show what work was done?

A.—Yes, sir. [Witness produces record.] All the original swamp land records were in one book, and each county allotted a certain number of pages.

Q.—What is the name of these records?

A.—Swamp Land Reports.

Q.—Who furnished you with these books?

A.—The State Printer. They were all ruled and bound by the State Printer. The book comes to the office ruled and bound, as you see it.

Mr. Crutcher—What length of time was consumed in copying that book?

A.—I do not know how long it took. The book was made from the original documents, and embraced everything on the old book. But the description of the lands was taken from the original papers.

Q.—Was all this transcription done for the parties interested, or by the office?

A.—I cannot say about that. There may have been transcriptions made or abstracts made for other parties. I think the copy of the book in Tulare County was made for some one down there. He was at work on another record, and he said he was making another copy of the same. I presume he did make it.

Q.—Where is that book now?

A.—I do not know, sir.

Q.—Not in the office?

A.—I have never seen it.

Q.—Was the book like that? [Shows.]

A.—Precisely like that.

Q.—Where did that book come from?

A.—From the State Printer.

Q.—You say that book was made for outside parties?

A.—I think so; I cannot state positively; I knew Haslann was

making a transfer of the records of Tulare County. I understood him to say that he was making another copy of it.

Q.—Was it necessary to make another copy for the office?

A.—No, sir; we did not need another copy.

Q.—I suppose such a book as that would have been very convenient to swamp-land men?

A.—Yes, sir; to real-estate men it would be very valuable.

Q.—Have copies of the records of this office been generally furnished to parties who applied for them during the last administration?

A.—I presume so. Any one who desires a copy from this office can obtain it. I think it was furnished.

Q.—Would you copy the records of this office for outsiders?

A.—I do not think so.

Q.—That is a book of records?

A.—That is a record.

Q.—Was it the practice of the former administration to get out copies of records?

A.—I think a number of them were made for Mullen & Hyde, under Bost's administration.

Q.—Copies of the books of records of this office?

A.—Yes, sir. They were not made by the office, but made by men employed by Mullen & Hyde.

Q.—Didn't use these books made by the State Printer?

A.—No, sir.

Q.—But a copy of this book was made by the State Printer?

A.—I suppose so; they are just like this one. There were a number of these blank books ordered at the same time. Two counties only have been supplied thus far.

Mr. Chapman—Has it been the practice of the office, when a second application was filed by the same man, on the same land, not to charge for it?

A.—I can only speak with regard to swamp land, as I had nothing to do with school land, except in a few instances. No application for school land was filed except by the express orders of the Surveyor-General or his deputy. If a party called, a note would be made of it, the fee received, and the attention of the Surveyor-General called to it when he came in.

Q.—What is the practice in the office now?

A.—I do not know. I think now the law requires that the fee should be paid with the application.

Q.—The law of eighteen hundred and sixty-eight was the same?

A.—Whether it was the same for amendatory applications or not, I do not know.

Mr. Harding—Did you ever hear of any map coming into this office that cost thirty dollars? Did you ever know of such a thing?

A.—I never did.

Q.—Did you ever know of such a thing?

A.—No; I cannot conceive of a Government map costing that much—thirty dollars.

Q.—Do you know what maps this office is required to send to Washington, if any? Do you know of any law requiring this office to send any maps to Washington?

A.—Not within the past ten years. A former Act of the Legisla-

ture required the Surveyor-General to forward swamp-land maps, I believe.

Q.—Is it not the duty of the Surveyor-General of the United States to furnish those maps?

A.—To the General Land Office at Washington?

Q.—Yes, sir.

A.—There is such a law.

Q.—Now, I will ask you about the manner of General Gardner's transacting business during his term of office; as to the knowledge of the business; what degree of care was exercised during his term?

A.—I will state that I have never, in the whole course of my experience with the Surveyor-General's office—never seen any one who gave the office so much attention—who was so thoroughly conversant with the business, as General Gardner.

Q.—Now, with reference to his attention to business, was he here in the office promptly?

A.—Yes, sir, with the exception of the time he was East. It was a very rare thing for him to be absent more than two days.

Q.—When was he in the East?

A.—He made two trips to the East during his term of office.

Q.—Two? He did not make more than two trips?

A.—Not that I know of.

Q.—Do you know whether he went to Washington both times?

A.—I think so.

Q.—Do you know what business took him there both times?

A.—No, sir.

Q.—Do you know why he went?

A.—I do not, sir. He took his wife with him, and was gone over three months.

Q.—Do you know any law requiring the Surveyor-General to go to Washington to attend to official business for the State?

A.—I do not, sir.

Q.—Do you remember the fact that he went to Washington once with reference to some pending swamp land locations?

A.—I know there was some considerable talk with regard to swamp lands in some of the mountain counties at that time. But whether he went with reference to these claims, I do not know.

Q.—Are you aware that while in Washington he abandoned the State's claim and title to these lands?

A.—I have an indistinct recollection that he told me he did. I think he told me he had done so. When he talked with me on the subject, he expressed himself as against the claims to State title.

Q.—Do you know what the result of his other trip was?

A.—No, sir.

Q.—Or what business took him there?

A.—No, sir.

Q.—What is the largest price you have ever known to be paid for a map in this office?

A.—As far as I know ten dollars has been the highest paid.

Q.—During all your experience in the Land Office?

A.—Yes, sir. I purchased some myself under a former administration, and paid three dollars, four dollars, five dollars, and for some of the largest and most difficult as high as ten dollars. These were on the Sacramento River, running along the banks, and they were

very difficult on account of the traverse lines. At that time I was paying five dollars for ordinary maps.

Q.—These were difficult maps?

A.—Yes; the ten dollar maps contained a large amount of work, and a great many meandering lines.

Q.—Do you know of any maps having been sent from this office to Washington under General Gardner's administration?

A.—No, sir.

Q.—Or at any time prior or since?

A.—No, sir.

Q.—There was some testimony given with regard to copying lists. Are you not always furnished with duplicate copies of all lists of lands in this State?

A.—All lands listed to this State—all lands patented to the State—all lists are sent directly to the Governor of the State, the Governor acknowledges the receipt of the papers, and sends the lists to the Surveyor-General's office.

Q.—Do you know of any lists, copies of which it would be necessary to obtain from the United States Surveyor-General's office?

A.—No, sir; I am not aware that they are ever sent; I thought it was to the local Land Office the department sent them.

Mr. Chapman—What lands are patented by the United States to the State?

A.—Swamp lands. I do not know of any others. They do not patent indemnity lands or grants.

Q.—You do not make any patent of school lands "in place"?

A.—No, sir; they do not list school lands "in place."

Mr. Harding—Now, I will ask you if there was any necessity, so far as you know, in this portion of the office, during General Gardner's term—was there any necessity for any extra assistance at all?

A.—I think three clerks could have done all the work.

Q.—Have you any extra clerks now, or since General Minis came into office?

A.—Three.

Q.—Extra clerks I speak of?

A.—I think in the Codes two are mentioned for this office, and three in the Surveyor-General's office.

Q.—How many regular clerks have you altogether?

A.—Five altogether, I believe.

Q.—Five and a deputy?

A.—Six with the deputy.

Q.—Is the business as large now as under General Gardner's administration?

A.—So far it has been about the same.

Q.—You have not found any difficulty in discharging the duties of the office with the present force, have you?

A.—No, sir.

Q.—The deputy gets two hundred dollars a month?

A.—Yes, sir.

Q.—In your opinion, was there any necessity for any extra assistance under General Gardner's administration?

A.—I think if I had been at the head of affairs, the work would have been well done with that force, without putting in many extra hours; but they would have had to work and attend to business. It would have been necessary for all clerks to have worked steadily.

Q.—What are the office hours?

A.—From ten to four, under the law. I never observed the hours I worked. I went to work frequently at eight in the morning. As I understand office hours, the work to be done must be done before and after the opening of the office, if there is not time enough in hours, the same as in the bank, where the books are posted up after the doors are closed.

Q.—What are the duties that require the Surveyor-General to travel about?

A.—I do not know of any.

Mr. Chapman—I would like to ask you if you know what those extra clerks were engaged upon here?

A.—Mr. Haslann was engaged transcribing these swamp land records and school lands, though he has often done other things. I have seen him attending to other matters frequently.

Q.—Do you know of any of them being, at any time, at work for private parties?

A.—I do not. Whatever they did, I would not know anything about it, or who they were doing it for, or whether it was private matters or not.

Q.—Will you state what the others were doing?

A.—I generally attended to my own business, and did not occupy my time watching others.

Mr. Koutz—Was there any rule of the office as to how long the clerks should work?

A.—From ten o'clock till four was the rule.

Q.—Do you know whether any regular clerks were paid to work for private parties?

A.—I do not. I know nothing about that.

Q.—I understood you to say that a large number of the records of the office were transcribed or copied for Mullen & Hyde during some former administration?

A.—Yes, sir; towards the close of Bost's term; but the parties furnished their own books and transcribed them themselves; made some copies of books, etc. They furnished their own books and made copies.

Mr. Harding—What position did Charles Gardner occupy?

A.—Clerk in the Surveyor-General's office, and attended to school lands.

Q.—Was he a regular clerk?

A.—I believe he was an extra clerk. I do not think he drew pay from the State Controller.

Q.—Who was General Gardner's deputy?

A.—Guptill.

Q.—What salary did he receive?

A.—Two hundred dollars a month.

Q.—How much of the time did he attend to business?

A.—That is hard for me to say. He was absent a great deal.

Q.—About what proportion of the time did he attend to business?

A.—When he was in the city he was generally in the office. He was absent from the city a great deal.

Q.—What did he do here?

A.—Signed papers, approvals, certificates, etc., and the duties of the Surveyor-General in his absence.

Q.—What proportion of the time did he spend in the office?

A.—When he was in the city—

Q.—Well, what proportion of the time did he spend in the city?

A.—Sometimes he was away for months.

Q.—Was he in the office half the time?

A.—I would not like to say whether he was or not.

Q.—Did he do anything except sign these documents?

A.—He never performed any of the duties of a clerk.

Q.—Did he perform any other duties?

A.—As I said, he would approve applications, certificates of purchase, etc., in place of the Surveyor-General; particularly when a very large number of applications were filled out, they would be taken to his desk and he would sign them.

Q.—Did he sign as a deputy, or in the name of the Surveyor-General?

A.—In the usual form: "Gardner, by deputy."

Mr. Chapman—What else did he do, besides?

A.—That is about all. Of course, when the Surveyor-General was absent, any papers coming in, they would be taken to him. No one in the office was privileged to open letters except the deputy or the Surveyor-General.

Q.—Where was he when absent?

A.—A great deal of the time in Humboldt, County, his former home.

Q.—Did these absences occur very often?

A.—He went up there a good many times, but I could not say how often.

Q.—I suppose he remained around the office when he had nothing else to do?

A.—When he was in Sacramento he was in the office, generally.

Q.—And he was here occasionally during General Gardner's term?

A.—That is not my answer. I paid no attention to it whatever.

Q.—He drew his salary regularly, as far as you know?

A.—That is a natural conclusion, I suppose.

Mr. Crutcher—Was not that the most of the work he performed—to draw his salary?

A.—That takes a very few moments. He did more than that.

Mr. Chapman—Don't you think if he had done his duty they would have had to hire less help?

A.—Yes; if he had performed the duties of a clerk, that would have been one less.

Mr. Harding—State, as far as you know, the extent of the correspondence of this office during General Gardner's term of office, as compared to that of the previous and present administrations?

A.—There was a very large amount of it during General Gardner's term, and also under General Bost's, but which was the greater, I do not know.

Q.—In regard to letters and telegraphs?

A.—A great deal came through the post-office. I recollect the Postmaster told me that no two State offices had such a correspondence as the Surveyor-General's office.

Q.—Was there a large amount of telegraphing under General Gardner's administration?

A.—I think there was considerable. I know there was an account with the telegraph company.

Q.—What duties are so urgent that they must be performed by telegraph?

A.—Sometimes a dispatch was received from a distant county, asking for some information.

Q.—When you answered such a dispatch, did you pay the charges?

A.—No, it was charged to the individual who received it.

Q.—About expressage—when you sent documents by express, did you prepay the charges, or did you send C. O. D.?

A.—Everything like certificates, copies of papers, etc., were sent C. O. D. If forwarding blanks the law requires the Surveyor-General to furnish the County Treasurers and Assessors, the postage or expressage is prepaid. The office had an account with Wells, Fargo & Co.

Q.—What would be the amount of expressage during the four years?

A.—That I cannot tell; but the appropriation for that purpose has not been too great.

Q.—You found it about right to cover the expense?

A.—Yes, sir.

Q.—You did not have much telegraphing, did you, except to private parties?

A.—I know of no case of that kind.

Q.—Then there would be legitimately no expense for telegraphing?

A.—Very trifling.

Q.—Would there be any at all?

A.—There might be cases where it would become necessary.

Mr. Koutz—Was there any account kept of the various sums paid for expressage, etc.?

A.—I do not know, sir. I know nothing about it.

Mr. Chapman—Did any body else keep any in this office?

A.—I really do not know. Whatever accounts General Gardner kept, he kept in his private desk. Wanzer must have kept accounts. I asked Wanzer for the fee-books. He said I would have to get some. Gardner had taken away those in the desk.

Q.—Are you confident of that?

A.—He told me that. I wanted the fee-book, as there was a number of items which needed to be—on December sixth, the day General Minis went into office, I had three items, amounting to ten dollars. I had no book, and I stepped up to him and asked for the fee-book. He said Gardner had taken them away.

Mr. Koutz—I suppose Wells, Fargo & Co. kept an account of the amount of the payments?

A.—Yes.

Mr. Chapman—You are certain that Mr. Wanzer answered that question, and admitted that there had been a fee-book kept in the office?

A.—Certainly, sir.

Mr. Harding—Do you know who made up General Gardner's reports?

A.—Mr. Wanzer, I think, furnished the data.

Q.—State whether General Gardner is a careful and accurate man in the transaction of business—such as making up reports, etc.?

A.—I think he is. I recollect he was very particular about seeing the proof.

Q.—Do you know, Mr. Twitchell, of any other matter concerning this office that ought to come before this committee?

A.—None that I would like to answer.

The committee then adjourned till seven o'clock, at the same place.

WEDNESDAY EVENING, March 23d, 1876.

Committee met in the Surveyor-General's office. Present—Messrs. Harding, Crutcher, and Chapman.

R. E. HOUGHTON, recalled.

Mr. Harding—It appears from the evidence in this case, and from the books in the office, that there are eleven hundred and thirty-five applications on which no fees are reported as paid. General Gardner, in his explanation of that matter, testified that it could be explained from the fact that these applications were amendatory, generally, and that it was not the policy of the office to charge extra fees in cases where the application was simply amended. Now, sir, I ask you to take up the several books of the different land districts, commencing with the Marysville District, refer to the books and state what the facts are, as shown by the official books, in regard to this matter?

Answer—Then I will commence with the Marysville District books, commencing on page thirty-six and running to page forty-one. The numbers of the applications are in nineteen hundred and ninety-six down to and including two thousand two hundred and twenty-four. These are applications filed by J. B. Dyer, and all filed on the fifth of October, eighteen hundred and seventy-two.

Q.—And none of them paid?

A.—There are no fees paid on any one of these applications. They are all original applications; not amendatory. Not one of these are amendatory applications. None of this land had ever been applied for by any one else. None of them are reported as paid. If the committee will look at the map they will see that these are all original applications. [The witness here referred to the map, township twenty-four north, range twenty-two east.] Wherever an application appears there should always be a number on it. There is a number on each application. These men have tied up here nearly twenty-eight sections. Any one can see the system and General Gardner understands it perfectly. As I understand the practice of the office to have been, every time an application is filed in this office that application is given a number as it comes in, and that number is placed on the land applied for, and is also marked on the map, if it is land taken for "lieu." The number is also placed on the land for which it is taken, if it is for the sixteenth and thirty-sixth sections.

Mr. Chapman—Now, Mr. Houghton, if the second application is filed, would the number appear on the second also?

A.—Yes, sir.

Mr. Harding—How many of these applications are there?

A.—Twenty-eight applications.

Q.—There are four pages running right along regularly?

A.—Only two pages on which no fees are paid at all. On page thirty-five there are three applications, and one of these applications has been approved. These are all original applications, and no fees

paid. On page fifty there are six applications, and no fees paid, and one of these applications has been approved. On page fifty-two there are also six applications—all original—no fees paid, and two of these applications have been approved. On page sixty-three there are five applications, not paid, and one of these has been approved. These are all original applications.

Mr. Chapman—Are these all made by one person?

A.—No, sir; B. B. Redding and J. P. Dyer, who appeared to be chronic bad pay. A great many of these applications are made by clerks in this office. They seldom seem to have paid anything. Nor have the clerks often paid anything when acting as attorneys and filing applications for others.

Mr. Harding—That will do for the Marysville District. Now, take up the Sacramento District, and see what the records show in relation to them.

Sacramento District.

A.—On page number seventy-three are six applications, all original, and not paid. All these seem to have been abandoned; they were made in eighteen hundred and seventy-two. On page number ninety-six there are twelve applications, not paid; all these were filed for by two parties—P. J. Hopper and A. L. Frost. On page one hundred and eleven there are four applications, no fees paid. On page one hundred and fourteen there are ten applications, all original, filed by B. B. Redding, and two of these have been abandoned. On page one hundred and seventeen there are six applications, all original, not paid, and all by Redding.

Mr. Harding—Now turn to the books of the Stockton District.

Stockton District.

Mr. Chapman—Are these you speak of all school-land applications?

A.—Yes, sir.

Q.—School-land applications, or lieu?

A.—In the Stockton District there are six applications, no fees marked "paid." Two of these applications have been approved. On page ninety-seven there are four applications, not paid, and three of these have been approved.

Mr. Harding—Now turn to the Visalia District, and see what the report shows there.

Visalia District.

A.—On page one hundred and forty-six there are seven applications unpaid, and two of these have been approved. On page one hundred and fifty there are three, and no fees paid. On page one hundred and fifty-three there are eleven applications, no fees paid, and four of these have been approved; and these four, I find, have been marked "paid" and erased. On page one hundred and fifty-nine there are nine applications, one of which is by the deputy, Mr. Guptill. Four of these have been approved; they were filed in eighteen hundred and seventy-two. On page one hundred and sixty-five there are five applications, all unpaid, and four of these have been approved. On page one hundred and seventy-nine there are five applications, unpaid, and two of these have been approved. There are also six applications on this page, not paid, and they are marked "amendatory applications."

Susanville District.

On page twenty-two of Susanville District there are six applications, unpaid. They are all filed by W. H. Crane. On page thirty-nine there are eight applications, all made by Mr. Ayer, who was a clerk in this office under Mr. Gardner's administration. Five of these eight applications have been approved. There is a mark in the margin showing that these have been marked "paid" and erased. On page one hundred and seven there are seven applications, unpaid. These are by Mat. F. Johnson.

Q.—Now, turn to the San Francisco District, and see what the record shows as to them?

San Francisco District.

A.—There are two books of the San Francisco District. In the third volume, page twenty-seven, there are eight applications, unpaid, by Grove L. Johnson. On page fifty-three there are three applications, unpaid. In volume two, page sixty-six, there are seven applications, not marked "paid." Some of them have been abandoned. On page eighty-five there are five applications, unpaid. On page ninety-three there are three applications, unpaid.

Q.—I will ask you, Mr. Houghton, how many applications can you put on a page?

A.—About fourteen to fifteen to a page.

Q.—Fourteen to fifteen to a page?

A.—Yes, sir. On page one hundred and forty-three there are twelve applications unpaid. They are marked "Illegal. No fees paid. Land sold by the United States." On page one hundred and sixty-five there are eight unpaid applications, and three of those have been approved.

Q.—In whose names are they?

A.—They stand in the name of Raymond and Ed. M. Martin.

Humboldt District.

On page forty-seven there are two unpaid applications, one of these approved.

Q.—In whose name?

A.—Petrolia Hunt. On page seventy-seven there are seven unpaid applications.

Q.—Under whose name?

A.—In the name of Burch Gruffroth, approved; and three in the name of Dollason & Dart, of Eureka, Humboldt County; and one by Chamberlain; and one by H. S. Dannels. There are six in all. On page seventy-nine there are four unpaid applications, and one of these has been approved.

Los Angeles District.

On page forty-six there are two applications, unpaid. They stand in the name of H. S. Austin, and one of them has been approved. They were filed in August, eighteen hundred and seventy-two. On page sixty-three there are eight applications unpaid. Four of these eight have been approved. They stand in the name of Crofton, of

Stockton. On page sixty-five there are nine, and five of these nine have been approved. On page seventy-five there are eight, and these all appear in the name of Ayer, a clerk in the office during Gardner's administration. On page eighty-seven there are nine, all in the name of J. H. Logan, and no fees paid. On page one hundred and thirteen there are six applications unpaid, all in the name of B. B. Redding.

Q.—As far as you can judge from the books, what proportion of the applications upon which no fees are reported paid are original applications?

A.—I think over three-fourths, if not four-fifths, at least.

Q.—Now, I ask you what those books show as to the payment or non-payment of amendatory applications?

A.—These books show that the fees have been made, in almost all cases, on amendatory applications. Further than that, I have filed myself, in swamp land matters, a great many amendatory applications here, and I never heard anything about any rule that would excuse me from paying the fee, until this investigation commenced.

Q.—Do you pay for each amendatory application?

A.—Yes, sir.

Q.—In every case?

A.—In every case. I have filed three applications on one piece of land for the same man, in the same name, and I have been required to pay every time.

Mr. Crutcher—What is the number of those applications you have reported?

A.—I cannot tell without counting them. All these applications have been tied up during Mr. Gardner's administration, commencing in eighteen hundred and seventy-one and running down to the present time.

Mr. Harding—Now, Mr. Houghton, there are some facts I wished to ask you the last time; and you have some statements, also, that you wish to make in connection with General Gardner's testimony. You can make that statement now?

A.—I stated to Mr. Harding that I was desirous of seeing General Gardner and asking him a few questions in regard to our conversation which I testified about before. I do not know that I can do any better than to say what I said before. As I stated before, I came here on my way to Bakersfield, and arrived here in the evening. I wanted to file my application in the morning, so as to get away on the afternoon train. I telegraphed to Mr. Wanzer to meet me at the Surveyor-General's office at eight o'clock. He did so, and I called for the application on file by Mullen & Hyde, against which I had prepared other and counter applications. Looking them over, I saw that three of them had been approved a few days before. I asked Mr. Wanzer as to the necessity of filing a protest as against the applications which had not been approved. He said it was not necessary—that the filing of the second application would create a contest. I told him that was the way I understood it. But he said this: that he was not in that branch of the office, and that I had better make further inquiries about it. And I went on the other side of the office and asked Mr. Twitchell about it. He gave the same reply to my question. When General Gardner came in I took the thirteen applications to him, paid the fees, and, to make assurance doubly sure, asked him the same questions that I had asked Wanzer and Twitchell. I told him I had

found three applications approved, and that I had a protest prepared and in my pocket to file against all of them; but, as I understood the law, it was not necessary. And he said that was so, and added, "this will hang up the matter until I go out of office." I had those applications in my hand at the time, which had the name of every applicant that I applied, except my own, which was not filled in. [The witness shows the committee the original protest which he had for the purpose of filing.]

Mr. Chapman—Is that the original protest?

A.—That is the original and identical protest. [The protest is dated San Francisco, November—, and is the protest of J. E. Houghton and others, protesting against the approval of the application.] After the Surveyor-General told me it was unnecessary, I left his desk and stepped over to the other one; I made out the protest against the three applications which had been approved. I filed that. I will say this: that when I filed these applications, I asked General Gardner to mark them on file, and to give me the number which they would bear. He said he could not do it, as the clerk was not in. I said to him: "General, give me the applications which those numbers all bear, from your book." He acted quite strangely, and after I had made my protest and handed it to him, he made this remark: "Mr. Houghton, what did you mean by asking me to mark those applications filed; have you not always been treated well in this office? Have you ever had any reason to believe that you had been wronged?" I said: "No, I have always been treated well, here." And then I told him that one of these parties wished me expressly to see that his application was marked "filed." I explained it to General Gardner, that it was a delicate task for me to make such a request; but that my client had told me that if I did not do it he would employ some other attorney who would do it. I went off with the understanding that he was to inform me when these applications were filed. I heard nothing from him until I came here two days after he went out of office; and then, for the first time, he told me about there being an approval and a certificate of purchase issued; but he excused himself by saying that he had been out of town, and that it had been done by his deputy during his absence.

Q.—How many times, probably, did you visit this office during General Gardner's term of office?

A.—Very little at all the first years of his administration, but during the last year very often; probably once a month.

Q.—Do you ever remember of finding him absent?

A.—I know he went East at one time, but I most always found him here; I never met the deputy here, though I was here a great many times. I never saw him in the office, and I had to be introduced to him when I saw him, after Gardner went out of office.

Q.—Now, there is one other item?

A.—General Gardner says the reason he did not approve these applications which were filed in eighteen hundred and seventy-three, for this land, until after I filed my own, was that the land had not been listed. Two thousand acres of that land was listed to the State the last of November—November, eighteen hundred and seventy-three, in list twenty-eighth. Further than that, at the same time the records show that about the same time this land was applied for by Mullen & Hyde, they applied for between two or three thousand acres more adjoining this; in eighteen hundred and seventy-three,

and there had been nothing in the way of an approval, and not one of these last applications has been approved.

Q.—Have you been approached by any parties in reference to this case, and if so, under what circumstances?

A.—A certain party came to me shortly before I came up here and told me that he had been waited upon by some one. During our conversation it came out that this party who waited upon him was F. A. Hyde. This party stated to me that it had been represented to him that it would be prejudicial to him if I came before this committee, and told me that he did not think it was right in me to attack his interests indirectly. I told him that I could not see it, as I did not know where he had any interests that could be affected by any testimony that I could give. He told me finally that he had been buying land for Mullen & Hyde. I told him that I felt it my duty to try and upset this whole thing, and that I should do it upon the strength of that, and that I should look into these matters and see what title he had to this land. Major Beaumont and myself went over three or four of his applications, and we found nearly all the lieu used in making these applications had been previously used by the same parties in other applications. Some, in fact, had even been listed to the State.

Q.—Do you mean to say that two pieces of land have been listed on the same piece of lieu?

A.—Yes, sir, I do; this lieu was used in two districts. He had his own lieu, out of his first application, and inserted it in the second application, and the land had been listed to the State.

Q.—Could that possibly have been done without the knowledge of the Surveyor-General?

A.—I do not know that he assumes any responsibility there; well, it might, though it could not have been done without his knowing, if he properly attended to his business.

Q.—At what time were these locations filed?

A.—Within the last nine months.

Q.—All at one time?

A.—No, sir; the first early in eighteen hundred and seventy; the last which has taken lieu away from the first was filed within the last nine months; the certificate of purchase, of course, is floating around the country and is salable property, but can never be patented.

Q.—Do you know whether there are many such certificates had from this office?

A.—I do not know. Well, I have no doubt in my own mind that there are many of them—that many of them have been used time and time again.

Q.—Well, they are fair and valid on their face, are they not?

A.—Of course; certainly they are. Of course there is nothing on the face to indicate anything in connection with fraud.

Q.—Do you know John McNee?

A.—Yes, sir; he is clerk for Mullen & Hyde.

Q.—How long has he been there as clerk?

A.—Ever since I have known them.

Mr. ROBINSON, recalled.

Mr. Harding [Showing witness protest with an accompanying map showing the Keystone mine, the protest being filed February twenty-

seventh, eighteen hundred and seventy-one]—State when this protest was filed.

Answer—February twenty-seventh, eighteen hundred and seventy-one.

Q.—When was the patent issued?

A.—October third, eighteen hundred and seventy-two.

Q.—What was the amount the State received for this property of three hundred and twenty acres?

A.—Four hundred dollars.

Q.—You heard the testimony, which showed that the original application appeared on the books without any accompanying fee?

A.—Yes, sir.

Q.—Have you had occasion to examine the books?

A.—No, sir; I have not.

Committee then adjourned.

THURSDAY, 11 o'clock, March 23d, 1876.

Committee met in the State Land Office. Present—Messrs. Harding, Chapman, and Koutz.

ROBERT GARDNER, recalled.

Mr. Gardner—I wish to say a word about my not being present last night. The Sergeant-at-Arms failed to notify me. I was at home all day.

Mr. Harding—Gentlemen of the committee, I requested the Sergeant-at-Arms to notify General Gardner, and he assured me that he would, and I supposed until now that he had done so. Now, General Gardner, the testimony given by you the other evening, and that given by Mr. Houghton the other day, raises a very plain question of veracity between you, and Mr. Houghton is here and desires to ask you one or two questions?

General Gardner—Certainly, sir.

Mr. Houghton—General, will you state just what took place between us on the morning I came in here with the thirteen applications to file on the same land that Mullen & Hyde had filed on?

Answer—You came to the office before I got here. You had a conference with Mr. Wanzer. I had no business with you. You did not tell me what your business was until you came to me with that bundle of applications, with an india-rubber band around them, and in the bundle was also a protest. You said you would like to file them. You wanted to file them right there and then. I told you that was impossible, as I did not put applications on the books myself, but that they would be filed as soon as the clerks came in. You said nothing to me about filing any protest, nor did you ask my opinion about filing, nor did I give you my advice about it in any way whatever.

Q.—Is that all that passed?

A.—That is the principal part of it. I think you asked me to show you where two or three of the applications were, and I think I came in here and found them for you.

Q.—Is that all that transpired between us that morning?

A.—I think you gave as a reason why you came so early, that you

were on your way to Bakersfield, and that you wanted to get away on the afternoon train.

Q.—Any other conversation about the filings of these applications, except the one when I handed them to you?

A.—I think not. The only conversation I had with you was there.

Q.—But one conversation?

A.—Only one.

Q.—You are sure of that?

A.—Yes, sir, as I recollect it.

Q.—Do you remember, General, of my going to your desk a second time, and your asking me this question: "Mr. Houghton, why did you ask me to file these applications, and give you the number which they would bear? Has there ever been anything, in your connection with this office, unsatisfactory, or have you ever been treated unfairly?"

A.—Yes; I do remember that such a conversation passed. In fact, I thought it a remarkable thing to ask me to mark them and give you the number at that time.

Q.—Then it seems we did have another conversation?

A.—Yes, sir.

Q.—Do you remember you called me to your desk to ask me about it?

A.—No; I did not call you to my desk.

Q.—Do you remember the reason I gave you for making that request?

A.—Something about clients.

Q.—Do you remember saying that your term of office was very nearly over, and that this thing would "hang up" until you went out of office?

A.—No, sir; I had no such recollection.

Q.—Do you swear that you never told me that?

A.—It is not in my recollection.

Q.—In your evidence, you gave as a reason for not approving these applications, that they could not be approved because the land had not been listed to the State?

A.—That evidence is not correct. I spoke of all those applications, and not of any one in particular. Some of these lands which were applied for then have been listed to the State since I went out of office. [Reporter here produces short-hand notes, and the evidence is found to be correct.]

Witness is here shown a book of the San Francisco Land District, volume three, page eighty-four, and asked the following questions:

Mr. Houghton—Are those numbers, commencing with six thousand four hundred and one, down to and including six thousand four hundred and twelve, the applications filed by me on the thirteenth day of November, eighteen hundred and seventy-five?

A.—I presume they are. They are the only ones you ever filed?

Q. [Witness is here shown a package of applications]—Are those applications the ones?

A.—I presume they are. They cover land in the same township.

Q.—Do they in fact cover the same land?

A.—I presume they do. They cover portions of the same land. Here are two of them that cover land in that township. Yes, they all refer to the same land.

Q.—The numbers of those applications are from five thousand six

hundred and five to five thousand six hundred and seven, and five thousand two hundred and ninety, five thousand nine hundred and ninety-three, five thousand nine hundred and eighty-eight, and five thousand six hundred and thirty. General, were these applications on file in this office at the time you approved the applications of Mullen & Hyde, on the nineteenth of November, eighteen hundred and seventy-five?

A.—I presume so, if they were not abandoned.

Q.—When were they abandoned?

A.—I cannot say.

Q.—Is that the abandonment? [Shows witness an abandonment.]

A.—That I do not know. I do not know whether it is or not.

Q.—Read that paper. [Witness reads and compares document.]

A.—This is a subsequent abandonment. There must have been one prior to this.

Q.—Can you find it?

A.—I do not know, sir.

Q.—That is the only abandonment on file in this office. What is the date of that?

A.—I can explain how that abandonment came here. There were other applications on file prior to that.

Q.—Yes; and those have been abandoned, too?

A.—No, sir; not all of them.

Q.—Those applications approved by you were on file in February, eighteen hundred and seventy-five?

A.—The records will show as to that.

Q.—Can you find an abandonment or a record of any other?

A.—There must be another.

Q.—Is there anything on the book showing they had been abandoned?

A.—As a rule, we did not note the dates on the book.

Q.—General, will you look and see if you can find it?

A.—I would not know where to look for an abandonment.

Q.—When did you see Hyde next, after I was here on the thirteenth of November?

A.—I do not remember.

Q.—Was it a week, two weeks, or a month?

A.—I do not remember.

Q.—Where did you see him next after that?

A.—Where?

Q.—Yes, sir; where?

A.—My recollection is, that the next time I saw him was the day I went out of office, the day you were here. I think you both arrived here the same day.

Q.—Did you see Hyde within a week after I left here, after filing those applications?

A.—I cannot remember.

Q.—Do you remember seeing him at your desk, and having some high words over these matters?

A.—No, sir.

Q.—Have you never had words with him about these applications?

A.—Yes; since I went out of office.

Q.—Not before?

A.—No, I think not.

Q.—Did you at your desk, within ten days after I filed those applications, have words with him about it?

A.—I have no recollection of it.

Q.—Do you recollect high words passing between you?

A.—No, sir.

Q.—Do you recollect money passing between you?

A.—No, sir; not a quarter of a dollar.

Q.—Have you ever had any pecuniary interest in this land?

A.—Not a quarter of a dollar; on the contrary, I will say right here that Hyde charges me with being interested with you, and we have had trouble about it.

Q.—There isn't much truth in that I should judge.

A.—Well, that has been the charge, and you know as to the truth of it.

Q.—Has it been the custom in this office to recognize an abandonment of an application made by an attorney who filed it, and not by the party?

A.—Yes, sir.

Q.—It was?

A.—Yes, sir; if you came here as an attorney I would file it, presuming that if you had the power to file it you would also have the power to abandon it.

Q.—It appears there are one thousand one hundred and thirty-five applications, which have been filed and no fees paid?

A.—Where the applications are not paid I can give good reasons for it. [Here witness was shown Marysville land-book, with numerous applications unpaid.] Many times men would send their applications here and say they would pay some other time, and many times the applications would come by express, and a note saying the money had been sent, when it really had not been sent. P. J. Hopper and A. L. Frost appear on the books as not paid. All these can be collected. I received a great many in the Marysville District, but I found the lands were unsurveyed, and they were not received.

Q.—But the applications were regularly filed?

A.—Yes; but they were not regularly made.

Q.—The law says every application shall be accompanied by a fee?

A.—Yes; but many times they were not accompanied by the fee.

Q.—Did you deem it your duty to file them without?

A.—Not without I expected the fee to be paid. Now, there were other applications filed under the decision of *Sherman v. Buick*. These applications were filed by W. R. Cantwell. I found out why they were filed, and told him he could not get them, and I refused to receive the fee, and marked the applications illegal. Many times applications came in and no fee came with them, and in the course of four years they would accumulate. There are also a great many amendatory.

Q.—When you would file without a fee, at whose risk did you suppose it was—at yours, or the State's?

A.—I supposed they would be paid. I collected a great many fees before I went out of office—wrote to them, and had them send them to me. I cannot, personally, supervise all applications. The clerks attend to them many times, and often the applications were marked paid where they were not paid. I believe it is the policy of the State to deal liberally, and not compel men to pay when they do not get the land.

Q.—Well, these sixteenth and thirty-sixth sections did not seem to be a drug in the market?

A.—They were in some parts of the State, and are to-day, a drug in the market.

Q. [Shows swamp land entry]—General, there are fourteen applications there, and no fees paid.

A.—I did not file those applications; did not cause them to be filed; did not know of it until I went out of office.

Q.—How many have been approved?

A. [Looks at the book]—I see but ten have been approved.

Q.—How many of the parties represented there were clerks in this office?

A.—Three.

Q.—How many applications do they represent?

A.—Wanzer represents two. The law allows each man to file six hundred and forty acres. Ayer takes three, Burke takes one, and Tuxbury takes a small amount. Guptill takes one.

Q.—Turn to the next page; how many there?

A.—There are two.

Q.—The next page?

A.—There are nine not paid.

Q.—How many of them by clerks in the office?

A.—None.

Q.—How many not paid have been approved?

A.—There are only two.

Q.—But two?

A.—E. M. Martin and O. C. Frink.

Q.—Who is Frink?

A.—I don't know.

Q.—I notice a number of applications, both in school and swamp land locations, that are not marked paid, that have been approved?

A.—Yes; there are some.

Q.—Within what time after filing the applications had you approved these?

A.—It might have been months.

Q.—Do you consider it your duty to collect the fee on the filing of the application?

A.—Many times I sent them away C. O. D., and they were never taken out of the office.

Q.—Has a patent been issued to Frink for that land?

A.—I do not know; the records will show. There are some of these applications filed by Major Beaumont on which the fees are not paid. He is a clerk in the office, and I suppose they are perfectly good.

Mr. Harding—Was it common, during your term, for clerks to file on State lands?

A.—No; I think not.

Q.—Did you approve of such a practice?

A.—I did not.

Q.—Although it was with your knowledge?

A.—Yes. They asked me if they could file on a piece of land. They had a right to file on three hundred and twenty acres.

Q.—About this abandonment. Have you any knowledge of any prior abandonment?

A.—There must have been one.

Q.—Do you think you can find it?

A.—I don't know. The records have been changed about. There must have been a second abandonment. I will say this: that there were other applications prior, and these made conflicts, killing themselves. The two large applications were filed prior to eighteen hundred and sixty-eight.

Q.—General, what was done with a book like that one, containing swamp-land records in Tulare County, coming from the State Printing Office, which was copied in this office and sent to private parties. Do you know anything about it?

A.—That book was duplicated out of office hours, and paid for to the party who copied it.

Q.—The book belonged to the State?

A.—Yes, sir, and I got pay for the book. I paid it into the State treasury with my fees. It was the only copy that was ever made in the office that was sent out of the office.

Q.—Do you think that was proper, to copy the records in the books belonging to the State, and send them away to private parties?

A.—They had the right to get that information without pay, but they wanted a complete record. It is the only instance of that kind during my time. It is a fact that every book in this office can be copied and given to private individuals. Every lawyer in the State can come into this office and make copies. Every bit of information in that book the party could have got by writing for it.

Q.—Who was that party?

A.—Zumwalt.

Q.—Where does he reside?

A.—In Visalia.

Q.—Is he a swamp-land man?

A.—Yes, sir. He has a great deal to do with land matters. He used to do a great deal of business with the office. He wanted to put a clerk in the office here, to make a copy of the records. I told him I would rather furnish this information than to be bothered with his clerk hauling over the books, etc. I was a long time at it.

Q.—Do you regard that as a proper practice in this office, to furnish private operators in State lands with the records of this office?

A.—I do. This man insisted that he had the right to come in here and see what applications had been filed. When I went to work on that book I found a great many mistakes in it, sometimes three or four in one survey. It did not take a great while to make a copy of the book after the first one had been made.

Q.—During your term were not duplicate copies of all the records furnished to Mullen & Hyde?

A.—Only at times. They would write letters asking for information of what applications were filed, but finally I refused to give it to them.

Q.—Was there not one period in which you had standing orders to furnish to Mullen & Hyde all information that came into the office that could be valuable to them?

A.—No, sir; never. They had no such order.

Q.—Have you seen their records?

A.—No, sir.

Q.—Have you ever been in their office?

A.—Yes, sir.

Q.—Do you not know, as a matter of fact, that they have a complete set of records of this office?

A.—I have never seen one of their books. Do not know what they got.

Q.—Were not their records continued down during your term?

A.—No, sir; they used to send a clerk to take memoranda of applications.

Q.—He took a description of all the land applied for?

A.—Yes, sir; and any one has the same right. When I came into the office there were no records to show what lands the State had received or lost, and we were perfectly at sea.

Q.—Are you not equally at sea now?

A.—No, sir; this office is in as good condition as it can be made. The same lieu was used three or four times before that. They could not tell, because there was no record.

Q.—They could tell at Washington?

A.—There, but not here.

Q.—And in case the second application was sent to Washington in advance of the prior application?

A.—That could not be done here. Our applications are sent from the local Land Office.

Q.—You certified the other evening in regard to fees, but mentioned them only in bulk. Now, have you any fee-books or other memoranda by which you can show this committee the amount of money that was received by this office during your term, other than filing applications, issuing certificates of purchase, patents, etc.?

A.—Mr. Wanzer was my Chief Clerk, and attended to making up reports, and he had all the memoranda of these fees.

Q.—In what manner did he keep them?

A.—Memoranda, papers, of fees received for profits, certified copies—

Q.—Did he keep a book?

A.—No book. The Treasurer's report was a book of itself. The certified copy fees were merely nominal.

Q.—Who received the fees in his absence?

A.—He was seldom absent.

Q.—Were they paid to Wanzer or your deputy?

A.—When he was absent they were handed to a clerk and put on a slip of paper, and put in his drawer.

Q.—Who was your deputy?

A.—Mr. Guptill.

Q.—Was he in the habit of receiving fees?

A.—None at all. When I was away he received fees in the other side.

Q.—I am speaking of fees from every source?

A.—They were received by Wanzer and Twitchell.

Q.—What did Twitchell do with the fees?

A.—Gave them to him.

Q.—Did you make a report of them?

A.—Yes, from memoranda.

Q.—What kind of memoranda?

A.—I kept them like that. [Shows a stub memorandum book.] The fees were merely nominal.

Mr. Crutcher—You didn't keep any fee-books at all?

A.—I did not think it necessary. Found none when I came here. I was informed there were none kept.

Mr. Harding—Don't you think that is rather a loose way of doing

business of thirty-five thousand dollars or thirty thousand dollars of the State's money?

A.—No, I do not. There was a record kept. The County Treasurers' books were a record. Every patent issued was a record by itself, and shows.

Q.—The County Treasurers' books only show one item.

A.—I made one payment at the end of July, eighteen hundred and seventy-three, of fourteen thousand dollars.

Q.—That is all the books show?

A.—I think so.

Q.—Don't you think a set of books would have shown much plainer?

A.—It would simply be a duplicate of what was already on the records. It would have kept one man at the desk all the time.

Q.—There is nothing to show this committee, outside of certificates of purchase, applications, and patents, whether there was a single dollar received, or whether there was fifty thousand?

A.—The books show.

Q.—There is nothing to show what was received in this office?

A.—I received about sixty-three thousand five hundred dollars. I did not receive one dollar more. That is the true receipts of the office. I paid into the State treasury more than any other Surveyor-General, and I believe the records will show that no Surveyor-General has ever collected as close as I did, in these fees. It was the custom to allow the County Treasurers three per cent. I did try to conduct this office honestly and well. The testimony will show that I staid here myself in the office. I was compelled to put in long hours. There never has been a time in the history of the State when so large a business was done as during my term.

Q.—I have in my hand the certificate from the Secretary of State, showing that during your term the cost of stationery was one thousand five hundred and ninety-eight dollars and seventy-four cents. What were the principal items?

A.—Well, I suppose everything used around the office came from the Secretary of State.

Q.—Did you have any printing done during your term?

A.—That would not be included in this.

Q.—Did you have any printing done for outside parties?

A.—I did not. I had some envelopes directed to Mullen & Hyde, because they did a large amount of business with the office.

Q.—Any deeds?

A.—Never, sir.

Q.—Were any deeds ever printed in the State office for private parties?

A.—Not to my knowledge.

Q.—Do you know whether such deeds were ever printed?

A.—Yes; I think there were a few, and a few certificates of purchase. I think there were some left in the office.

Q.—Do you know whom they were printed for?

A.—I had the certificates of purchase printed myself. The deeds I did not have printed. I never had any printed by the State Printer.

Q.—Were not some of these blanks you speak of being printed in the State Printing Office, afterwards used by the firm of Mullen & Hyde?

A.—No, sir. Mullen & Hyde never received a deed from this office, or any other firm. Very often I sent assignments to parties.

Q.—Where were they printed?

A.—Not in the State office.

Q.—Can you furnish to this committee any more definite information as to the amount of fees received?

A.—I cannot.

Q.—You simply say that is correct?

A.—That is correct. I cannot divide the amounts. I employed as little extra help as possible.

Q.—I understood you to say the other evening that the amount of money paid for maps, assistance, etc., as shown in your reports, was an error?

A.—Yes, sir.

Q.—What is the extent of that error?

A.—I cannot say exactly.

Q.—About how much?

A.—I have never figured it.

Q.—What is the amount in the first report?

A.—Maps and assistance, eleven thousand and forty-nine dollars and eighty-four cents,

Q.—Is that right?

A.—That is correct.

Q.—Now the other report—what is the amount paid for maps and assistance?

A.—Sixteen thousand five hundred and eight dollars and ninety-nine cents.

Q.—Is that an error?

A.—Yes.

Q.—What should it have been?

A.—That can be told by figuring. The amount for fees is right.

Q.—And the other receipts—are they correct?

A.—Yes; the error in the report was not discovered until after it was printed. Mr. Burke got one hundred dollars a month, and fifty dollars a month extra.

Q.—Burke says he only got twenty-five dollars a month extra?

A.—He was paid that amount of money.

Q.—It has been shown that no one in the office did more than Mr. Burke?

A.—That is a mistake.

Q.—You say Burke did no extra work while drawing salary as a regular clerk?

A.—No, sir; I tried to treat all the clerks alike. I intended to pay them for the work they done. When they worked extra nights I employed them to do it. Mr. Oakley worked getting up these applications, and did nothing else.

Q.—There was some testimony given the other night about some maps costing thirty dollars apiece. I ask you to look at this letter-book of yours [shows letter-book], at the letter dated November, eighteen hundred and seventy-two, and December twenty-fourth, eighteen hundred and seventy-three, page four hundred and sixteen.

A. [Reads letter]—That is all right. I did not want to pay thirty dollars apiece for the maps; but Hardenburgh insisted that I must pay for them, or else the land would not be listed. I thought it better to pay for these maps than not to have the land listed to the

State. There must have been others besides this letter. That only goes to show that I did not want to pay that price for them. I never bought more maps than I was compelled to.

Q.—The committee did not understand by what right you expended the State's money for maps to send to Washington?

A.—I was told that the lands could not be listed to the State until these maps were filed.

Mr. Koutz—Were these maps made and certified by the United States Surveyor-General?

A.—I presume so.

Q.—Were they sent direct from that office?

A.—Yes, sir.

Mr. Harding—How do you know that?

A.—I judge so, because the lands were listed to the State. I did not presume Hardenburgh would charge for any maps we never got.

Q.—You are aware that the officers at Washington would not act upon any map, unless under the hand and seal of the Surveyor-General of the United States? He would not act upon any other, and there is an appropriation for that purpose.

A.—I do not know about that. I cannot say. There must be some more letters upon this subject, which will explain this case more fully.

Q.—Do you think that was a legal charge against the State?

A.—I think it was to the interest of the State.

Q.—But it seems the State did not get them?

A.—But they were in the interest of the State.

Mr. Chapman—What were these maps?

A.—That I do not know.

Q.—What kind of maps were they?

A.—I do not know. I was told that such maps were required.

Q.—Was it not the duty of the Surveyor-General of the United States to furnish these maps?

A.—I think so; but he did not have the clerical assistance to do it.

Q.—This was to hasten things?

A.—Yes, sir.

Mr. Koutz—You simply paid for these maps in order to get them sooner?

A.—Yes, sir.

Mr. Harding—Did not Hardenburgh, then, receive pay twice for making these maps—once from the State, and once from the United States?

A.—No; I think not.

Q.—Why not. There was an appropriation by the United States?

A.—I think not.

Q.—Did you not have an agent at Washington to attend to the business?

A.—Yes; but I didn't always correspond with him.

Mr. Koutz—Did I understand you to say that the United States Surveyor-General would have to send maps to Washington as soon as practicable, as the surveys are extended?

A.—Yes.

Q.—Are these the kind of maps you speak of?

A.—That I do not know.

Mr. Harding—Do you not know there are but three kinds of maps?

A.—I know these must have existed. They were required there. They were sent there and the lands were listed.

Q.—Can you give us any items of the two thousand two hundred and fifty dollars expended by you in traveling?

A.—Expenses attending my business at Washington.

Q.—How many trips?

A.—Three.

Q.—When did you make the first one?

A.—The first one, I think, was made in October, eighteen hundred and seventy-two.

Q.—On what business?

A.—I went on general business, but particularly to see about some lands in Sierra Valley, that were not swamp lands, which the State did not lay claim to. Parties were attempting to use the name of the State, and I went there to see about it. The lands were never swamp.

Q.—Did you regard it necessary that you should go personally to Washington to inform the Department that the State had no claim to this land. There was an agent there whose duty it was to attend to that matter?

A.—The agent did not always attend to his duties.

Q.—Could not the business have been done by letter?

A.—I think not.

Q.—Then what you did was simply to disclaim any title to this land?

A.—It was to protect settlers against all claimants.

Q.—You appeared there for the United States, and not for the State. The settlers were trying to obtain titles from the United States, and not from the State. Did you go there for the purpose of vacating the State's title?

A.—I went there to put in the right ones.

Q.—You abandoned the State's title?

A.—I refused to follow—

Q.—Did you not abandon the State's title?

A.—The records will show. I presume that it was. My letter was published at the time all over the State by the papers.

Q.—What did you do in reference to the matter?

A.—I went there and saw the Commissioner, and he told me that parties were using the name of the State, and he believed them wrong, and that I, as the agent of the State—

Q.—You were not the agent of the State?

A.—Yes; agent of all the State lands.

Q.—Under what law did you proceed to Washington, as agent of the State?

A.—Under the general law, that I had the right to look out for the interests of the State.

Q.—Did you consider it looking after the interests of the State to abandon the State's title?

A.—Yes; when unrepresented.

Q.—Was the State about to lose anything in case you did not go to Washington?

A.—Her name was being used unjustly, as I thought. I refused to allow these parties to proceed further.

Q.—Had the State won that land, the State would have had just that much more money?

A.—No, sir.

Q.—Why not?

A.—Because all moneys for swamp land is paid to the County Treasurers, and finally paid back to the parties.

Q.—These lands would have been reclaimed and the State benefited, however. Do you consider it the advantage of the State to abandon title to her swamp lands?

A.—These were not swamp lands.

Q.—That was a grave question. What other business did you attend to there?

A.—Some general business regarding the listing of lands.

Q.—Was not Mr. Hastings in charge, and paid by the State?

A.—He was; but he did not always attend to it.

Q.—When did you make the next trip?

A.—The following May, eighteen hundred and seventy-three.

Q.—On what business?

A.—I went on general business, when there was a conflict between the State and the United States. There was a lot of swamp land below Sacramento, on the river.

Q.—What is the title of the case?

A.—I cannot give it now.

Q.—Can you give the township?

A.—One man was named Greer, one named Beach.

Q.—Where was the contest?

A.—Between the State and the United States.

Q.—In what office?

A.—In what particular office?

Q.—In the State office, local Land Office, or where?

A.—I found the contest pending in Washington.

Q.—Do you not know where it went from?

A.—No, sir.

Q.—Who were the attorneys in the case?

A.—There were none, I think.

Q.—Can you give us the locations of that land by referring to the maps? What did you do in that case?

A.—I called the attention of the department to it.

Q.—Did you file a brief?

A.—I did not. I went before the Commissioner in person.

Q.—What amount of land?

A.—The location of this land is section five, township seven north, range six east, Sacramento River.

Q.—Now, what was your purpose?

A.—To get these lands listed to the State.

Q.—Was Hastings there at that time?

A.—Yes, sir; but failed to get these lands listed.

Q.—He was there authorized by law to attend to it?

A.—He received two and one-half cents per acre. There were no special instructions.

Q.—You informed him, did you not?

A.—Yes; but my request was not replied to.

Q.—What did you do?

A.—I went before the Commissioner.

Q.—Could you not have done it by letter?

A.—No.

Mr. Chapman—What difference did it make to this office?

A.—These men came in here with their patents, and I thought it was the duty of the State to get these lands listed.

Mr. Harding—When the State issued those patents you had no further jurisdiction?

A.—Not now.

Q.—The Surveyor-General never had, did he?

A.—Yes, sir.

Q.—How?

A.—When the Surveyor-General issues a patent now, that is final; but under the old law they could get patents without the list being made.

Q.—Then that was a matter for the parties and not for the State, was it not?

A.—I think not. The State had sold the lands as swamp lands, and I thought it was my duty to attend to the matter.

Q.—Did you think Hastings not competent to attend to it?

A.—Well, he did not do it. He did attend to some business. The third time I went he was not there.

Q.—Do you know of any provision of law authorizing you to go to Washington on any business whatever?

A.—I thought I had as much right as I had to go to San Francisco. The first time I was gone twenty-seven days, the second time thirty-six days, and the last time—

Q.—Did you get the lands listed?

A.—I did; or at least, they were listed after I left.

Q.—How soon?

A.—I do not know.

Q.—Could you put your hand on them now?

A.—No; I think not.

Q.—What time was that; May, eighteen hundred and seventy-three?

A.—Yes, sir.

Q.—What time did you make the third trip?

A.—May, eighteen hundred and seventy-four.

Q.—Was that on business?

A.—Yes, sir.

Q.—What business?

A.—Seeing to getting lands listed, looking after swamp lands, getting patents for swamp lands, and general business.

Mr. TWITCHELL, recalled.

Mr. Twitchell stated to the committee that when he was asked the question, the other evening, "If he knew of anything else in connection with the Surveyor-General's office that ought to come before the committee?" to which he replied, "Nothing that he would like to answer," he had no reference to General Gardner's administration. He thought there might be some misconstruction put upon it, and he wanted it set right.

Committee adjourned.

FRIDAY EVENING, March 24th, 1876.

Committee met in the State Land Office. Present—Harding, Chapman, and Koutz.

RICHARD SAVAGE, SWORN.

Mr. Harding—Where do you reside?

Answer—Los Angeles.

Q.—Ever bought any State land?

A.—Yes, sir; I filed on a piece of land September twenty-fifth, eighteen hundred and sixty-nine.

Q.—Did you get a patent?

A.—Yes, sir; January seventeenth, eighteen hundred and seventy-three.

Q.—What is the condition of it now?

A.—Two years ago I proposed to utilize it, and found it in the possession of a man named Stanley, who holds a patent issued July twenty-eighth, eighteen hundred and seventy-three, for the same land.

Q.—What land was it?

A.—School land.

Q.—In what county?

A.—Near Moro Bay, El Choro Creek, San Luis Obispo County.

Q.—Do you know the second patent was issued?

A.—I do not. As soon as the second was issued I wrote to General Gardner, and the letters are in my possession in Los Angeles, and if I had time I could get them. They were to the effect that according to some defect in the first, he thought the other man had equal right with me, and that he had concluded to issue a patent to the other party. I had never taken any notice of the application of any other party until I went to take possession of the land.

Q.—Did you ever receive any notice of a contest?

A.—None, whatever. I find here, by the papers, that the contest had been filed July fifteenth, eighteen hundred and seventy-five, by Stanley, but nothing was done. I never had any notice until I proposed to use the land.

Mr. Crutcher—Have you the patent with you?

A.—Yes, sir. [Shows patent to committee.] At the time I applied for my patent General Bost wrote to me that some other person had filed on the land, but that they had no rights, and that they could have their money back. I had several correspondences, and paid for the land and received my patent.

Q.—Who was the other party?

A.—Henry G. Stanley.

Q.—Is he living on it?

A.—He is in possession of it. I located this land with a view to making it a home. I also located another piece adjoining it; and when I found this piece had gone, I did not pay the interest upon the second piece, because I thought I had no certainty of getting title. I had supposed when I paid the State in good faith I could get the property.

Q.—Have you had any conversation with the Surveyor-General about it?

A.—I have not. I corresponded with him.

Q.—You say you had no notice of any contest?

A.—None, except what General Bost said, that some person had filed on the land, but that they had no rights, and I could have the patent.

Q.—What is the location of that land?

A.—The patent calls for lot two, section twenty-eight; lots one, two, and three, and southwest quarter of northeast quarter of section twenty-three, township twenty-nine south, range eleven east, Mount Diablo meridian.

Q.—Have you any further statement?

A.—No, sir. I have not paid the interest on the adjoining piece, because I had no certainty of getting it.

Q.—Was Stanley in possession of the land at the time you filed?

A.—No, sir.

Q.—Did he have any improvements?

A.—No.

Q.—When did he take possession?

A.—In eighteen hundred and sixty-nine.

Q.—When did you file on it?

A.—October twentieth, eighteen hundred and sixty-eight.

Q.—Before he came there?

A.—Before he came there. He came there in December, eighteen hundred and sixty-eight and purchased a portion of a Spanish grant, and this land was adjoining it, with a fine spring of water, and he wanted the spring, I suppose.

Q.—I suppose you have been put to some cost?

A.—Yes, sir; some of the lawyers advised me to abandon it, but I did not feel so disposed; if I have any rights in the matter, the Courts will maintain those rights.

Mr. Koutz—Have you copies of the correspondence with General Gardner?

A.—There must be a letter-book here that will show it.

Q.—On what pretended ground was the subsequent patent issued?

A.—According to some ruling of some Courts, General Gardner held that Stanley had some rights in the matter; and, as he said, to put us on an equal footing, he issued the patent to him, and leaves us to contest it in the Courts, of course.

F. A. HYDE, sworn.

Mr. Harding—Where do you reside?

Answer—In San Francisco.

Q.—What is your business?

A.—Of the firm of Mullen & Hyde.

Q.—What is the business of the firm?

A.—Land business, dealing in lands, attorneys for land claimants, etc.

Q.—How long have you been engaged in the business?

A.—About three years; nearly four years.

Q.—During that time have you had a great deal of business with the Surveyor-General's office?

A.—I have.

Q.—You are familiar with the workings of the office, and mode of doing business?

A.—Somewhat.

Q.—You were in the office frequently during the last four years?

A.—I cannot say that I have been. Most all of our business has been transacted by correspondence. I have been in the office quite seldom.

Q.—What has been the character of your business with the office?

A.—Most of it has been securing titles for parties desiring to locate land, attending to cases of contest, and representing all land claimants before the office.

Q.—Of course you are perfectly familiar with the whole system of lieu land in the United States and the State of California, and the mode of locating, and procuring titles?

A.—I am.

Q.—I would like to have you state to the committee what has been the practice in this office in relation to making indemnity selections, so far as you have any knowledge of that subject?

A.—The first step is to make an application in lieu of sixteenth and thirty-sixth sections, or indemnity for fractional townships. If the application is accepted by the Surveyor-General, it is his duty to send the applications to the local Land Office for the district in which the land is. If the Register accepts the application, he reports to Washington. At the end of three months, if the Register is informed by the Surveyor-General that the land is free from claims, it is then approved. The substance of the oath that he is compelled to take is that he is a citizen of the United States, and desires to purchase the land, and there is no valid adverse claim to it; that he has not applied for any lands in lieu of sixteenth and thirty-sixth sections which will exceed three hundred and twenty acres.

Q.—What is the object of that provision?

A.—That is a question for a lawyer.

Q.—That is a question for you as a witness.

A.—I suppose it is, undoubtedly, to prevent any one man from locating more than three hundred and twenty acres.

Q.—Is that provision of the law generally carried out in making selections, or has it been evaded?

A.—There has been no evasion of the affidavit, that I know of.

Q.—Do you know of any men having obtained titles to more than three hundred and twenty acres of land by indemnity selections?

A.—It has been done indirectly.

Q.—To what extent, in your judgment?

A.—That I do not know.

Q.—Can you give us any information on that point?

A.—No, sir.

Q.—You say you can give us no information on that point. Now, after applications have been filed in this office, it is possible, is it not, to abstract the lieu from them, and put it into subsequent applications? That can be done, can it not?

A.—It is not possible if the application has gone to the Land Office. If the application is filed, and not sent to the Land Office, it might be done. But after it is once on file in the United States Land Office, the lieu cannot be changed.

Q.—What would be the effect of such a transfer?

A.—To invalidate the first application.

Q.—Do you know of any such cases in this office during the last four years?

A.—Yes, sir; numerous cases of that kind.

Mr. Chapman—You say that would invalidate the first application?

A.—Yes, sir; if it has not been sent to the United States Land Office.

Q.—I will ask you if this transfer can be made from the first to the second application without the knowledge and connivance of some one in the Surveyor-General's office?

A.—Only in the case of mistake; not as a regular thing. It is possible for a mistake to be made in making up reports. I myself sometimes found lieu gone from my applications.

Q.—Now, in what way could that occur?

A.—By the clerk who enters them on the maps making a mistake in his notations, putting one number instead of another, or putting a number in the wrong place.

Q.—Will such a theory as that account for the numerous transfers of lieu land I have mentioned?

A.—No, sir.

Q.—Has any such transfer occurred, in your own knowledge and under your own observation?

A.—Yes, sir.

Q.—To what extent has such a system been practiced in this office during the past four years?

A.—That I cannot say.

Q.—As far as your knowledge goes?

A.—Well, it has always been the custom when one application is invalid, the lieu could be taken and inserted in the next one.

Q.—Where different parties make them?

A.—I can remember four or five instances in my own practice, where I filed applications and other parties came in afterwards and took the lieu. I made complaint about it at the time, and some excuse was made that the clerks in receiving the second application had forgotten mine.

Q.—You say you know numerous instances where it has been done?

A.—Well, by that I mean numerous instances by the same party. I know of some instances where this has been done by different parties.

Q.—Do you not know that a large proportion of the old unsurveyed locations have had the lieu stolen from them and put in subsequent applications?

A.—I believe that is a fact.

Q.—Could that have been done without the knowledge of this office?

A.—I think not. It may be proper for me to explain one thing, however. By the ruling of the Commissioner of the General Land Office, the lieu in these old locations has nothing to do with the selections. The department has ruled that by the Act of eighteen hundred and sixty-six, all these selections were confirmed without respect to the lieu land in them, or whether or not there was any lieu land in them; only that the purchases must be made according to State laws.

Q.—Can you give the committee any information concerning what is known as "lieu-pots"?

A.—I have never known of any lieu-land pots since General Gardner went in. I remember, prior to that time, there were some big applications, and lieu would be taken out and put in.

Q.—Any further information? What is the *modus operandi* of doing that?

A.—Well, I hardly know how to answer that question. I do not think the business has been done to any great extent. The *modus operandi* would be to file an application and have it put on the records, and when the necessity should arise, to take the lieu from the first and use it in the second.

Q.—You do not know of that having been done?

A.—I do know of that having been done; that applications have been filed and abandoned, and others taking their place; but what we call lieu-land pots, I do not know of anything of that kind. These

I speak of, were large applications that were filed, and the lieu put in and taken out at pleasure. That practice has ceased since the law was changed.

Q.—Was that law changed before General Gardner's term?

A.—No, sir; not till eighteen hundred and seventy-three.

Q.—Did the Codes make the change?

A.—Yes, sir; the Codes made the change to three hundred and twenty acres.

Q.—Since that time lieu-pots have not existed?

A.—No, sir.

Mr. Koutz—Do you know of any case where an application has been made for lieu lands, and the description afterward erased and other lieu taken from a prior application and substituted in place of it?

A.—I know of numerous instances where the first application was invalid. Lieu will have to be changed sometimes three or four times before it will be accepted by the office.

Q.—Would the same affidavit apply to one as the other?

A.—Yes, sir; you wanted to know about the change of description. In two or three instances, where there was a clerical mistake, we have made corrections.

Mr. Harding—Tell this committee what you understand by the "dummy system."

A.—I don't know what you mean. I have not been here to hear all the testimony. You may have established a system I know nothing about.

Q.—You have never heard of that system?

A.—No, sir. I should judge you meant fictitious persons.

Q.—Has that system been indulged in much?

A.—Not that I am aware of.

Q.—Have you any idea of the number of applications you have filed during the past four years?

A.—I have not.

Q.—Can you approximate?

A.—No, sir.

Q.—One thousand?

A.—Yes; I suppose so.

Q.—Have you paid the fees?

A.—I never had anything out of this office without paying for it.

Q.—Have you invariably paid fees?

A.—Yes; I didn't get off so slick as some of them.

Q.—You and your partner have done the largest business of any firm in the State?

A.—I suppose so.

Q.—How much money, as near as you can tell, have you paid into this office for fees, outside of applications, certificates of purchase, and patents?

A.—I do not know; I have no idea. We have no record to show as to that. It was sent a little at a time.

Q.—Do you keep any books?

A.—No, sir. Our system is, when money comes in we divide it.

Q.—Now, approximate how much money you have paid into this office during the past four years?

A.—I prefer to testify only to what I know. I do not know what we have paid, nor when we paid it.

Q.—Have you anything to show in your office?
 A.—We may have memoranda. All we care to know is how much went out; we don't care where it went to.
 Q.—In your practice, you are in the habit of procuring copies of maps, are you not?
 A.—Yes, sir.
 Q.—What is the average price of township maps?
 A.—For easy maps, five dollars; for difficult maps, ten dollars to twelve dollars and fifty cents.
 Q.—Twelve dollars and fifty cents is the highest you ever paid?
 A.—I think so.
 Q.—How many have you in your office?
 A.—A book full of them.
 Q.—In no case have you paid more than twelve dollars and fifty cents? Usually five dollars was the price?
 A.—I think five dollars was the usual price.
 Q.—Were you interested in the Sierra Valley swamp land case?
 A.—No, sir.
 Q.—You had some applications on file in this office for land in Mendocino County, before General Gardner went out of office. Do you recollect those?
 A.—Yes, sir.
 Q.—Do you recollect how the records stood at the time?
 A.—Yes, sir.
 Q.—Do you know whether you ever filed more than one abandonment in that case?
 A.—I do not remember.
 Q.—Did you file an abandonment?
 A.—Yes, sir.
 Q.—You never filed more than one, did you? [Shows abandonment.]
 A.—I do not remember.
 Q.—What's your belief about it?
 A.—I do not recollect of filing any other abandonment, but I have no special recollection about it at all. I may and I may not have done so. I did not charge my mind with it, anyway.
 Q.—Do you know of any practice in this office whereby the application, or the description of land, or the lieu, was allowed to be changed after the application was sworn to?
 A.—No, sir.
 Q.—Do not know of such cases?
 A.—I have known of cases in which the description has been changed.
 Q.—How long after being sworn to?
 A.—I do not remember any particular case. I have done so where I had made a mistake, or where there was a clerical error, but I can recall no particular case.
 Q.—Was your office ever furnished with blank deeds or assignments during General Gardner's term?
 A.—No, sir.
 Q.—None at all?
 A.—Not one.
 Q.—Do you know of applications having been filed in this office from six to twelve months after the affidavit was made—sworn to prior to the date of filling in?

A.—I do not remember any particular case. I presume it has been done.
 Q.—Do you know whether it has been done or not?
 A.—I should not know without seeing the case; not from memory.
 Q.—[Shows application]—Look at that application and see when it was sworn to.
 A.—Seventeenth of March, eighteen hundred and seventy-three.
 Q.—And when filed in this office?
 A.—Twenty-eighth of August, eighteen hundred and seventy-three.
 Q.—In whose name?
 A.—J. E. Tucker.
 Q.—For what land.
 A.—Northeast quarter section eighteen, township eight south, range three west.
 Q.—What is the appearance of that?
 A.—One description has been erased.
 Q.—And another substituted?
 A.—Yes, sir.
 Q.—Have you any means of knowing when that was done?
 A.—No, sir.
 Q.—Was it before or after it was signed?
 A.—I do not remember.
 Q.—Who were the attorneys in that case?
 A.—We filed the application.
 Q.—The original application was for land in San Luis Obispo County?
 A.—Yes, sir.
 Q.—What is substituted?
 A.—Land in Santa Cruz County.
 Q.—Do you know whether that application was returned to your office after having been sent to this office?
 A.—I do not.
 Q.—Did you ever know instances of that kind, where the description was changed after the application and affidavit was filed?
 A.—No, sir.
 Q.—Look at this application. [Shows.] What is the date of the affidavit in that case?
 A.—April tenth, eighteen hundred and seventy-three.
 Q.—What is the date of filing?
 A.—August twenty-seventh, eighteen hundred and seventy-three.
 Q.—Any change in that application?
 A.—Yes, sir.
 Q.—What change?
 A.—Appears to have been one description crossed out and another put in.
 Q.—Where is the land situated, relatively to each other?
 A.—The first is the west half of section four, Mendocino County.
 Q.—And the other?
 A.—South half of section twenty, Santa Cruz County.
 Q.—Do you know where that was made?
 A.—No, sir.
 Q.—Do you know whether it was made in this office?
 A.—I do not think it was.
 Q.—Look at application five thousand five hundred and eighty-eight. What is the date?

A.—Seventeenth of March, eighteen hundred and seventy-three.

Q.—Date of filing?

A.—Twenty-second of August, eighteen hundred and seventy-three.

Q.—Any change in the application?

A.—Yes, sir.

Q.—State what change?

A.—Change from north half section seventeen, San Luis Obispo County, to north half section twenty-nine, Santa Cruz County.

Q.—Is that a common thing—common occurrence in this office—to file an application, five, six, or seven months after sworn to?

A.—That was formerly done. I know, in the course of my practice, I have made out applications and left them in our office, with instructions to file as soon as the maps came in. Parties living at a distance often done that.

Mr. Koutz—Were there any more applications besides those you have mentioned, where land was erased?

A.—I don't remember any more. I did not remember these.

Q.—What was the idea of making the change?

A.—I do not know.

Q.—[Shows five thousand five hundred and ninety]—Look at this application, and see if the description is changed?

A.—Yes, sir.

Q.—State the change.

A.—I do not know what the change is; there has been some change, but I cannot tell what it is. [Holds it to the window.] It appears to have been made first for lands in Mendocino County, and changed to land in Santa Cruz County.

Q.—At what time was the application made?

A.—April tenth, eighteen hundred and seventy-three.

Q.—When filed?

A.—August twenty-second, eighteen hundred and seventy-three.

Q.—Was it filed by you?

A.—I think it was.

Q.—Now look at five thousand five hundred and ninety-one; is there any change there?

A.—Yes, sir.

Q.—What change?

A.—Change from land in Colusa County to land in Santa Cruz County.

Q.—When was the affidavit made in that case?

A.—January thirtieth, eighteen hundred and seventy-three.

Q.—Date of filing?

A.—August twenty-second, eighteen hundred and seventy-three.

Q.—Do you know whether the land in this application had ever been previously applied for?

A.—I do not remember any such case. My opinion is, that the land was vacant at that time, or these would not have been filed.

Q.—Was that ever done to your knowledge—taking land from a prior application, erasing the description and filling in another description of land?

A.—I never knew an application to be filed for more than one piece of land.

Q.—What I mean is, whether any of these applications were erased?

A.—These erasures must have been made before they were filed.

Mr. Harding—How do you know they were made before filing?

A.—I am satisfied of it.

Q.—What are your reasons?

A.—Because I do not think this office would allow such a practice

Q.—Any other reasons?

A.—I would not have charged them, anyhow.

Q.—Any other reasons?

A.—No, sir.

Q.—Did I understand you to say you paid, in every instance, for the filing of applications, a regular fee of five dollars?

A.—Yes, sir.

Q.—All applications?

A.—Yes, sir.

Q.—For all kinds of land?

A.—Yes; except in three or four instances, where I filed amendatory applications. Not any great number. I did not pay for amendatory applications, but I did not file many.

Q.—I suppose if you had sent up a fee for amendatory application it would have been sent back?

A.—No, sir.

Q.—Have you read the testimony on that point?

A.—No, sir.

Q.—Haven't you read the testimony in the papers?

A.—Yes.

Q.—Do you know that the books of this office show that three-fourths of all amendatory applications during Gardner's term were marked paid on the books?

A.—No, sir; that was the rule of the office during the time we did business here. I do not suppose we filed a dozen during the last four years; therefore, my fees were generally paid.

Q.—You are not aware of the fact that more than three-fourths of the applications amendatory are marked paid on the books.

A.—I did not know it.

Q.—Why do you say it was a rule of the office not to pay?

A.—Because I was so informed.

Q.—By whom?

A.—By the Surveyor-General.

Q.—When you filed amendatory applications you never sent a fee?

A.—No, sir.

Q.—Then if a fee of yours for amendatory applications is marked paid on the books, that is his mistake?

A.—No; I would sooner say my testimony is wrong. If any was marked paid, it was paid.

Q.—How could you know, if you never examined the books?

A.—I do not know.

Q.—Then why do you say that in every case where it is marked paid, it was paid.

A.—You are getting too deep for me. I seldom filed amendatory applications.

Q.—Do you know this—that you did or that you did not pay for your amendatory applications?

A.—I do not remember any particular one, but I know that it has always been my understanding that they were not charged for.

Q.—Do you know any provision of the law which authorizes such a course?

A.—No, sir.

Q.—You are familiar with the law, are you not?
 A.—Yes.
 Q.—Do you know of such a law?
 A.—No, sir; if I had been Surveyor-General, I should have charged for them.
 Q.—How did you use to make your payments to the Surveyor-General?
 A.—Generally paid in bulk.
 Q.—How often?
 A.—Every month.
 Q.—And paid for the number of applications sent up?
 A.—Yes; and in that way might have paid for an amendatory application.
 Q.—He might have charged?
 A.—Yes; and we not have known it.
 Q.—Have you any reason to believe or suppose you ever filed any other abandonment, except that one mentioned?
 A.—No, sir.
 Mr. Koutz—Did you ever make any abstracts of the books and records in this office?
 A.—No; I have made up copies of applications, but never made any abstracts.
 Q.—Never sent a clerk here?
 A.—Yes.
 Q.—Did not your clerk come here to make abstracts?
 A.—Not during General Gardner's term of office.
 Mr. Harding—You have a complete set of records of this office?
 A.—No, sir.
 Q.—But you have, so far as valuable information is concerned?
 A.—Simply a list of the applications filed, that is all.

ISAAC AYER, sworn.

Mr. Harding—How long were you a clerk in the Surveyor-General's office, under General Gardner?

Answer—From the first of April, eighteen hundred and seventy-two, to the close of his term—that would be forty-four months.

Q.—You were here the entire term, except four months?

A.—Yes.

Q.—What office?

A.—In the Land Office.

Q.—Were you a regular clerk, or an extra clerk?

A.—Regular, from the first of July, eighteen hundred and seventy-two.

Q.—Did you draw your salary from the State treasury during that time?

A.—From the July following, I did.

Q.—What did you receive a month, from April to July?

A.—One hundred and fifty dollars a month, and one hundred dollars a month extra—two hundred and fifty dollars a month altogether.

Q.—How much extra pay did you receive during the entire time?

A.—The vouchers will show. I have stated it as near as I can.

Q.—How much salary did you draw from the treasury?

A.—One hundred and fifty dollars a month.

Q.—How much extra pay?

A.—One hundred dollars a month, up to the first of March of the last year—none after that.

Q.—You were paid two hundred and fifty dollars a month from July, eighteen hundred and seventy-two, to March, eighteen hundred and seventy-five?

A.—Yes, sir.

Q.—Under what arrangement with General Gardner did you receive that much?

A.—No particular arrangement. I worked extra. He gave me that for extra work.

Q.—Did you do any more work than the other clerks in the office?

A.—Well, I hate to say as to that. They were all good clerks. I did a good deal of work evenings. Mr. Wanzer and Mr. Burke did some extra work.

Q.—Did you do more than Mr. Twitchell?

A.—I never knew him to do extra work.

Q.—What work did you do?

A.—Worked on the patent-books.

Q.—Was any of this work you did for outside parties?

A.—Not that I know of.

Q.—What did it consist of?

A.—For two years it was to make out patents, putting on County Treasurers' reports, approvals, etc.

Q.—Any other services?

A.—No; only general work.

Q.—Did you retain that extra one hundred dollars a month?

A.—Yes; every dollar of it.

Q.—Do you know whether any fee-books were kept in this office?

A.—I do not. I suppose they were kept. I did not keep them myself.

Q.—Did you see any in the office while you were here?

A.—I have. I think Mr. Wanzer kept a book. I cannot say positively, but I suppose he kept a book.

Q.—Did you see the book?

A.—I saw a book which I suppose he kept fees in.

Q.—What desk was it kept in?

A.—This desk. [Pointing.] Wanzer's desk in the land office.

Q.—Just point out the place.

A.—Over there. [Pointing.] On the right-hand side of the desk.

Q.—Did you ever issue approvals?

A.—None at all. They were done in the other office.

Q.—Where was your desk?

A.—[Points it out.]

Q.—You and Mr. Wanzer were here the whole four years?

A.—Yes, sir.

Mr. Koutz—Did you look at these fee-books, to see that they were fee-books?

A.—I suppose they were fee-books. The County Treasurers' reports showed how much was received from that source, and the patent-books showed—

Mr. Harding—How many were there?

A.—I cannot say.

Q.—More than one?

A.—If there were fee-books, there would be one for the County

Treasurers, one for patents, and one for certificates of purchase carried out.

Mr. Koutz—Are these fees received for applications?

A.—They would be received in the other office.

Mr. Harding—Do you know whether the Surveyor-General kept a fee-book himself?

A.—I know nothing about it.

Q.—When were you paid this extra hundred dollars?

A.—Along at the end of each month.

Q.—By whom?

A.—By General Gardner.

Q.—He used to hand you one hundred dollars?

A.—I would make out my bill, and he would make me out a check.

Q.—Do you know Charles Gardner?

A.—Yes.

Q.—What was his business?

A.—Clerk in the Surveyor-General's office—issuing approvals, and other work.

Q.—Was he an efficient clerk?

A.—Perhaps not for the first month or so. He wrote a very neat hand, and soon became quite efficient.

Q.—Did you receive all your pay for extra services before this investigation commenced?

A.—Yes, sir.

M. J. O. WANZER, sworn.

Mr. Harding—You were clerk in this office during General Gardner's administration?

Answer—Yes, sir.

Q.—Did you see any fee-books in this office?

A.—I kept the receipts in books, or memoranda of all moneys received in this side of the office, but not in the Surveyor-General's office, for the purpose of accounting for them to General Gardner.

Q.—Did you see any fee-books?

A.—I have had books in which I kept the amount of money I received for the month. I then settled with General Gardner, paid over all the money and he would take the book. The next month I might have kept it on legal paper. I always kept an account of the moneys received.

Q.—Did you keep any fee-books?

A.—Yes, sir.

Q.—How many?

A.—I can't exactly tell. I might have had six or seven.

Q.—Where are those books now?

A.—I do not know, sir.

Q.—When did you hand them to General Gardner?

A.—On the first of December, when he went out of office; I think I settled up on the first of December.

Q.—You think about six or seven in all?

A.—Yes, sir.

Committee adjourned.

SATURDAY, March 25th, 1876.

Committee met in the Surveyor-General's office. Present—Harding, Chapman, and Koutz.

Mr. WANZER, recalled.

Mr. Harding—*Mr. Wanzer*, since giving your testimony yesterday, you have requested the committee to allow you to make an explanation of that testimony. You can now have an opportunity to do so.

Mr. Wanzer—The statement I wish to make is in relation to the character of the books I kept. The books which I alluded to yesterday, were books in which were entered the cash that I received from time to time—in most instances, not stating even the source from which those receipts came, whether they were for patents, certificates of purchase, or what it was for. In other instances, they would state what it was for; in others, again, they would not. Sometimes I kept these accounts in simple memoranda books, and when I settled up with General Gardner I would hand them over to him. When we settled up at the end of the month, or whenever we settled, they were handed to him, and he took them with him. The character of the books were properly cash—private cash accounts between myself and General Gardner. That is the whole purpose for which they were used by us. That is all the statement I wish to make.

Mr. Harding—Have you had any interview with General Gardner since yesterday?

A.—I have talked with him.

Q.—In relation to this matter?

A.—In relation to this matter; but the conversation would not make any difference as to what I state here. You were in a hurry, and I did not have time to state fully yesterday.

Q.—Is that all the explanation you wish to make?

Judge McFarland here appeared as counsel for General Gardner, and asked leave to ask the witness a few questions, which was granted by the committee.

Judge McFarland—*Mr. Wanzer*, in your testimony yesterday you stated that you kept fee-books. I would like to have you state what kind of books you kept in this office, and the character of the books, and for what purpose?

A.—I kept these books in memoranda, as I have already mentioned. I kept an account-book of patent delivery, which shows for itself; I kept an account-book with the Secretary of State, and had an account with the several County Treasurers.

Q.—Were these all you kept?

A.—Those were all the regular books I kept.

Q.—Now, these books you called fee-books yesterday, were they not simply intended to be private accounts between you and General Gardner, or were they intended to be accounts between General Gardner and the State?

A.—They were simply memoranda account of cash that I received from time to time.

Q.—You were clerk in the Register's department?

A.—Yes, sir.

Q.—You received most of the money paid in there?

A.—Yes, sir; in the Register's department.

Q.—And accounted for those fees to General Gardner?

A.—Yes, sir.

Q.—Now, were these fee-books not simple private accounts between you and him?

A.—I so stated.

Q.—Now, were these amounts always put in books, or were they not frequently put on pieces of paper?

A.—Yes, sir; on papers or memoranda.

Q.—Is it not a fact that you would hand the papers and money to General Gardner?

A.—I have done that.

Q.—Now, would these books show the sources from which the money came?

A.—Sometimes they did and sometimes they did not.

Q.—Sometimes entered simply as cash?

A.—As I have stated.

Q.—Only intended to show the amount of money which you received, and to settle with General Gardner?

A.—Certainly.

Q.—What was done with them after you settled?

A.—It is my impression they were destroyed at the time of the settlement. I may have handed one or two of them to General Gardner.

Q.—Now, if you had all these memoranda at the present time, would they show all the receipts of the office?

A.—You mean the entire receipts during the term?

Q.—Yes, sir.

A.—They would not.

Q.—Why would they not?

A.—I have already explained they were kept on memoranda and destroyed. The books were always considered private memoranda.

Q.—Would they be of any use to General Gardner in making a report to the State?

A.—No, sir.

Q.—From what source did he get the data for these reports?

A.—He got the data from the several clerks, who compiled the data from the several County Treasurers' books, certificates, patents, profits, etc.

Q.—Then these books you speak of were not intended at all as fee-books upon which to base reports?

A.—They were not for that purpose, at all.

Q.—What kind of books were they? Were they account-books?

A.—Sometimes they were little pass-books.

Q.—They were books?

A.—Sometimes they were bound. [Witness here produces a pocket memoranda from the desk.]

Mr. Chapman—Mr. Wanzer, what did you mean to say, yesterday, by fee-books? You said: "I have kept them on slips of paper, or memoranda paper?"

A.—Yes, sir.

Mr. McFarland—You said yesterday that these books were given to General Gardner. Were they all delivered to him?

A.—You mean all the books of that character?

Q.—Yes, sir.

A.—The two different kinds of books you are talking about?

Q.—I am not talking about patent-books; I am talking about these

memoranda books in which you kept the account of cash. Were these books all given to General Gardner?

A.—No, sir; not all of them.

Q.—What was done with the others?

A.—They were retained upon this desk here. I saw two or three of them around this desk at the close of the term. Sometimes he would take them. I have given him six or seven of these books, and I never knew what became of them. They were considered of no value whatever.

Q.—Then they were considered simply as private books, or private accounts between yourself and General Gardner?

A.—Yes, sir.

Q.—Will you please tell the committee why you called these books "fee-books" yesterday—what you meant by "fee-books"?

A.—They simply show the money received in the office as fees. My attention was being directed at the time to the fee-books, and I answered the question supposing that I would have an opportunity to explain. They should not have been designated as "fee-books."

Q.—They were not intended as fee-books?

A.—They were not intended as accounts between General Gardner and the State, by any means.

Q.—You collected fees as clerk? When you paid over the money to Gardner, you simply made these memoranda to show how much you had collected?

A.—That is it.

Q.—Was it not the custom to put down simply cash, without stating what it was for?

A.—Yes, sir.

Q.—Do you know the amount of money this office received during General Gardner's administration?

The question was objected to by the committee.

Mr. McFarland—Mr. Wanzer, these books you speak of were not intended as part of the records of the office?

A.—These patent-delivery books are part of the records of the office. These cash memoranda I did not consider as part of the records of the office.

Q.—These books do not contain all the fees of the Surveyor-General's office?

A.—They contain no fees of the Surveyor-General's office.

Q.—After the books were full, and had been used, were they considered as of any account as between you and General Gardner?

A.—They were not.

Q.—While you were keeping these accounts, you had the control of all the money of that part of the office?

A.—I had the key to the safe, and accounted for it to General Gardner; and these memoranda were for making my settlements with him.

Q.—When these books were full, General Gardner took them away with him, or did he leave them?

A.—I never filled a book entirely full while I was in the office. The custom was this: I would keep these books along, and after having had a settlement I would start with a new book or memoranda, and make my entries of cash received until General Gardner would come to me and ask me how much money I had, and he would say: "Well, I guess I will take it," and he would go to the safe and get it.

Sometimes I had five pages written in the books, and sometimes I had more.

Q.—Did not you use paper memoranda during the last two years, more than you did the first two years?

A.—Yes; I was more particular about these accounts the first two years than I was the last. I suppose I got more careless as the time ran out, and as I found we had confidence in each other.

Q.—Were these small pass-books not considered more in the nature of memoranda than regular books?

A.—I have already stated so. I think the longest I ever kept one book was during the three months of General Gardner's absence. I kept a book then because he was away, and I was more particular about it.

Mr. Chapman—Were you present when this office was turned over to General Minis?

A.—I think I was. I am not sure. I was around the building.

Q.—Do you remember of being asked where your fee-books were?

A.—I do not, sir; the question may have been asked, but I do not recollect it now.

Q.—Do you remember Mr. Twitchell asking you where the fee-books were, and you stated that you had delivered them to General Gardner?

A.—I do not remember. He may have done so, however.

Q.—Do you know what has become of these memoranda books you speak of—these six or seven books?

A.—I know nothing about them; I never saw them afterwards. General Gardner took them away.

Mr. Harding—But you thought them of sufficient importance to deliver them to General Gardner?

A.—I handed them to him, and he took them away.

General GARDNER, recalled.

[Mr. McFarland came before the committee, and requested that General Gardner be allowed to make a further statement in relation to these books, and he was allowed so to do.]

Mr. Gardner—Mr. Harding asked me this question about these books, and I was referring all the time to the regular fee-books, and the books which we have left here. I said in that testimony that there were no fee-books kept. There were no fee-books kept between myself and the State, except those patent-books and County Treasurers' books. These memoranda—I did not consider them any books at all, I want that understood—they were simply a memoranda between me and him for making my reports. Mr. Wanzer kept no fee-books—none that I called fee-books, containing the entire fees of the office—no official book to go with the office, and to leave with the office. I never took a book away from the office.

Mr. McFarland—When you said there were no fee-books, you did not mean that those memoranda were not kept?

A.—No, sir; of course not. I will say here that I never knew how to open that safe. [Pointing.]

Mr. Chapman—Did you keep these memoranda with the other clerks in the office?

A.—No, sir; if Mr. Twitchell collected money he would hand it to me. They were put on the record and marked "paid." It would be

impossible to open a set of books and keep them as complete as they now are.

Mr. Harding—Did Mr. Wanzer testify correctly yesterday that he delivered six or seven books to you?

A.—I cannot remember as to the number of the memoranda he delivered to me.

Q.—What did you do with them?

A.—I did not keep them at all. I took off the cash accounts and threw them one side.

Q.—Do you know where these books are now?

A.—They are all destroyed.

Mr. Harding—That is all.

JOHN MCNEE, sworn.

Mr. Harding—You are clerk for Mullen & Hyde?

Answer—Yes, sir.

Q.—How long?

A.—Since December first, eighteen hundred and seventy-two.

Q.—You have full charge of their business?

A.—No; Mr. Hyde usually takes charge.

Q.—You have intimate business relations between the Surveyor-General's office and that office?

A.—We have a very large correspondence.

Q.—Did you frequently come to this office to attend to the business?

A.—I have occasionally come.

Q.—Do you know of any cases where lieu was taken from former applications and inserted in subsequent ones?

A.—I know it has been done, but I cannot recall any particular case.

Q.—You know it has been done?

A.—Yes, sir.

Q.—In several instances?

A.—Yes, in several instances.

Q.—Could that have been done without the knowledge of the Surveyor-General or his deputy?

A.—No, I think not.

Q.—Do you know anything about the "dummy system"?

A.—I do not know what you mean.

Q.—Don't you know what is meant by that phrase?

A.—I suppose you mean that parties get other parties to make applications for land.

Q.—Do you know of any cases of that kind?

A.—I do not know as I do.

Q.—Had you any knowledge of these applications referred to yesterday, which were sworn to in March and filed in August?

A.—I did not see the applications.

Q.—Is that a common thing for your office to do—to have applications sworn to in advance?

A.—No; but it has been done where clients wanted to swear to applications and did not want to file them until the plat was filed. I have known cases where applications lay in the office for several months.

Q.—Was it not furnished from the Surveyor-General's office?

A.—Yes, sir; for two years; and after that I used to come up here.

Q.—Then there was some misunderstanding between Mullen & Hyde and General Gardner?

A.—I do not know.

Q.—For the first two years, then, information was furnished to your office?

A.—Yes, sir. We used to receive it, in abstracts, about once in two months, of the applications in the different land districts.

Mr. Koutz—Did you keep that in books of your own?

A.—Yes, sir; kept it in the records of applications.

Mr. Harding—In making applications for lieu land, it was your custom, generally, to take conveyance, deed, or assignment from the party who made the application, as soon as it was sworn to?

A.—I don't know, I am sure.

Q.—Do you know of any cases of that kind where parties, as soon as they swore to an application, made a deed of it to Mullen & Hyde?

A.—I believe it has been done, but I do not know of any particular case.

Q.—What you mean to say is, that you cannot call to mind the name of the party who made it, but you think it has been done?

A.—I think it has been done. The applications were given to me to send to the Surveyor-General's office, and I never saw the names of the parties, if there was any.

Mr. Chapman—Did you have anything to do with the expenditures of Mullen & Hyde?

A.—No, sir.

Q.—You do not know whether they paid for these abstracts or not?

A.—I never knew them to pay, but they may have paid.

Q.—From the nature of your business, would you have known it?

A.—Well, I really do not know whether I would or not; because they would send up a check to pay for their fees, and it might have been included in the check.

Mr. Harding—Who made out the indemnity lists which were sent to Washington?

A.—For school lands?

Q.—Yes, sir.

A.—I have made out indemnity lists, and Mr. Hyde has made them out.

Q.—When those lists were made out you could tell where the lieu was, and whether it was taken from former applications? You have sufficient records to know, by looking over the pages of your records, to see what is done with every piece of lieu and every piece of surveyed land?

A.—We have not a complete record. We have a record of San Francisco District, and of Los Angeles District. We have a record of Humboldt District, but we have received no abstracts from that district since I went there.

Q.—Do you know whether—the first two years in which you were in the habit of receiving information from this office—whether Surveyor-General Gardner was interested in any locations being made at that time?

A.—I do not know.

Q.—Do you know whether any other parties were interested in locations made in your office, other than your applicants?

A.—No, sir.

Q.—You have frequently filed applications yourself in this office?

A.—Yes, sir.

Q.—Did you always pay for the filing?

A.—We used to pay once a month. The Surveyor-General would present a bill for the number filed, and we would pay for them by check.

Q.—Do you know anything about what these bills would amount to?

A.—I think they would average over one hundred dollars per month.

Q.—Would they not average over two hundred dollars per month?

A.—I do not think so. There has been months as high as two hundred and forty dollars.

Q.—About what proportion of that usually went for services other than for filing applications, certificates of purchase, patents, etc.?

A.—Well, I do not believe more than twenty dollars per month; not more than that. It might average that much.

Q.—In obtaining this information from the office, have you not yourself seen, in many instances, where lieu has been stolen out of former applications, and use in subsequent applications?

A.—Yes; I have seen instances of that kind.

Q.—Have you not observed that, from time to time, ever since you have been in the office?

A.—Yes, sir; yes. Lieu has been taken out of prior applications for various reasons.

Q.—I mean, where there was no good reason?

A.—Yes, sir. I have seen cases where there was no reason.

Q.—That would invalidate, in every case, the first application?

A.—Yes, sir.

Q.—And the second would get the land?

A.—Yes, sir. It would be listed on the second application, and the first would be lost.

Q.—Were you ever furnished by this office with any blanks of any kind?

A.—Blank applications, only.

Q.—They came direct from this office?

A.—Yes, sir.

Q.—How many? Did you procure them all here?

A.—Yes; all that we have ever used since I have been in there?

Q.—Any blank deeds or assignments?

A.—No, sir; not that I know of.

Mr. Chapman—Have you kept any blank deeds to use in this office?

A.—Not to my knowledge.

Mr. Harding—Was this information ever telegraphed to your office?

A.—No, sir; not that I know of.

Q.—No information concerning this office ever telegraphed?

A.—Not that I know of.

Q.—Were you in the habit of reading Mullen & Hyde's letters and telegrams?

A.—No, sir; not until they opened them first, and handed them to me.

Q.—Do you know of large applications being put on for the purpose of forming lieu-pots?

A.—I have known of one or two instances where large applications were filed, but I did not know for what purpose.

Q.—They have been in the habit of transferring lieu from large applications to small ones—isn't that so?

A.—That is so.

Q.—In that way all the lieu land in the State could be monopolized?

A.—Yes, sir.

Q.—All that is necessary is to have a party follow the surveyor in the field?

A.—Yes, sir; if the Surveyor-General would allow this to be done.

Q.—Has not that been done during Gardner's administration?

A.—Yes, sir; it has been done.

Mr. Chapman—Do you know whether there has been any agreement between the Surveyor-General and the parties?

A.—I do not, sir.

Q.—Could you tell to what extent this practice has been pursued?

A.—Filing lieu applications?

Q.—Yes, sir.

A.—No, sir.

Q.—Has not most all the land, for the last four years, been applied for before the plat has been applied for in the local Land Office?

A.—I do not know that it has.

Q.—Well, in relation to that, didn't you usually get your lieu before the plats came into the office?

A.—Certainly. A great portion of that lieu has been used long before the surveys were made. You cannot get land listed over until the township was surveyed.

Q.—Have you not been in the habit of receiving abstracts from all the local Land Offices in the State?

A.—Only from Los Angeles and San Francisco Districts.

Q.—Does the Los Angeles District furnish you with abstracts?

A.—They furnish abstracts of preemption filings, etc.

Q.—For which you pay?

A.—Yes, I suppose they pay; I do not know.

Mr. Koutz—But after the first year that abstracts were sent from this office, how did you obtain them?

A.—I came up and copied them up myself.

Q.—Did you bring books with you?

A.—No; I copied them in pencil, and wrote them off afterwards.

Q.—Did you ever know of Mullen & Hyde sending a man up with books?

A.—I came up here last fall and copied some remarks; that is all.

General MINIS, sworn.

Mr. Harding—General Minis, we would like to have you state to this committee the condition you found the records in at the commencement of your term?

Answer—As to the condition, I cannot tell much about it.

Q.—What occurred between you and General Gardner?

A.—General Gardner handed the keys over to me at eleven o'clock, on the sixth day of December, and told me that everything was in good condition. Mr. Twitchell made out a list and compared it with General Gardner, and I gave him a receipt. In the other end of the office he handed me some applications to file, and the fees for filing them—I think forty-five dollars in all—and he said everything that belonged to the office was here.

Q.—How much money was turned over?

A.—I think forty-five dollars for applications?

Q.—Any other money?

A.—Something like one hundred dollars to be paid in to the Secretary of State. Mr. Twitchell keeps my books in the Land Office, and Mr. Rice in the other end of the office. I asked them to keep my cash-books, and they did it. I have required cash-books to be kept in both offices so as to have everything correct. When I came into office I asked General Gardner for his cash-books, and he said he did not keep any books—the books kept themselves. He said the application books were here, and the books for patents, certificates of purchase, etc. So I told Mr. Twitchell to get a book to keep account of all moneys that came into the office.

[Mr. Twitchell here shows two cash-books, showing an itemized account of all moneys received and disbursed by the office.]

Q.—Have these books been kept ever since you came into office?

A.—Yes, sir.

Q.—Everything that comes into the office is put down?

A.—Every dollar, sir.

Q.—I ask you if the volume of business since your term commenced has been about the same as General Gardner's, as far as you know?

A.—Yes; I think so. I think the number of applications has probably been greater. Since I came into the office I have had five clerks and a deputy, as provided by law, and one extra clerk; and that extra clerk has done the drafting of the office. He has also recorded deeds. We have kept up the business. I have been able to send it off as fast as it came in.

Q.—Have you had any difficulty in doing the business with that amount of help?

A.—No, sir.

Q.—Do you think you can get along with the present force, as far as current business demands?

A.—Yes; I think so.

Mr. Chapman—Will you require any more force to settle up the business of your predecessor?

A.—Well, there are a great many applications that have laid here for a long time, which will have to be approved and settled up, and a great many certificates of purchase on which the twenty per cent. is paid, and I think the greater part of my work will be in finishing up Gardner's work—and getting out the titles to lands is a great deal of work. You have to have competent men for clerks in this office. Sometimes you have to go back for years in tracing up titles. We are doing some of this back work now.

Q.—If it were not for the old business you could dispatch the work of the office with your present force?

A.—Yes, sir.

Q.—Have you any further statement to make?

A.—I am fully convinced that private parties should have nothing to do with the lieu lands of the State, and that the Surveyor-General should substitute the lieu. I think I will not file any more applications until I can ascertain how much we are entitled to. I understand some of the land districts have applied for more indemnity land than they are entitled to. The State is already in debt, and the Registers say they will not certify to any more lists until this back

amount is made up. If this appropriation is not made we cannot expect any more lands listed.

Q.—What is the amount necessary?

A.—I think ten thousand dollars would cover all the bills for the past two years, and carry us through the next two.

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REPORT

OF THE

COMMITTEE ON COMMERCE AND NAVIGATION

ON THE

SEAWORTHINESS OF STEAM VESSELS CARRYING PASSENGERS TO AND
FROM THE PORT OF SAN FRANCISCO.

REPORT.

Mr. SPEAKER: Your Committee on Commerce and Navigation, to whom was referred Assembly resolution of December twentieth, eighteen hundred and seventy-five, with special instructions to investigate the condition as to the seaworthiness of steam vessels carrying passengers to and from the Port of San Francisco, respectfully submit the following report: We had in attendance before us as witnesses all persons who were in any way able to throw any light on the subject under investigation; and, among others, eight members of the Board of Underwriters or Marine Surveyors—gentlemen whose business it is to examine and report to their several companies the condition of vessels applying for insurance either on the hull or cargo—and your committee consider their testimony the most competent we could procure. We have examined in all thirty-one witnesses, and have also received several affidavits on the same subject. The witnesses were in all cases submitted to a thorough examination, without showing partiality to any. In many instances there has been great discrepancy and contradiction in the evidence of certain witnesses, but others have appeared before the committee and given their testimony in a plain, straightforward manner, divested of bias or prejudice, and your committee have every confidence in the truth of their statements. The testimony elicited was taken down by a competent phonographic reporter, and after a careful review of the evidence taken, we have arrived at the following conclusions:

We find from the evidence that the steamships Senator, Los Angeles, Orizaba, Ancon, Mohongo—vessels owned by Goodall, Nelson & Perkins' Steamship Company—are in a good and seaworthy condition; and we also find from the evidence that the vessels of said company are kept supplied with all the necessary appliances for their safe navigation and for the safety of their passengers.

Second—Regarding the steamer Coquille, against whose seaworthiness some doubt was raised by one of the witnesses, your committee would say: that for the past two years the said steamer has been engaged on one of the most dangerous routes followed by any passenger vessel on the Pacific coast, and that if more was necessary to determine the staunch and seaworthy character of said vessel, it would be furnished in the fact of her having been aground several times and escaping without loss of life to her passengers or damage to cargo; and, also, that we find that the Marine Surveyors of San Francisco have no hesitation in taking risks on either the hull or

cargo of said vessel. In view of all these facts, your committee are satisfied that the steamer Coquille is one of the best of the passenger vessels sailing from the Port of San Francisco.

Third—We find from the evidence that the vessels of the Oregon Steamship Company—such as the Pelican, Ajax, and Oriflamme—are also in good order. We find there is no evidence to show that the vessels of the Pacific Mail Steamship Company are unseaworthy; but your committee earnestly deprecate the employment of Chinese sailors by said company, as we do not think them reliable in an emergency, and we are of the opinion that the Pacific Mail Steamship Company is imperiling the lives of passengers by sending vessels to sea manned by crews composed of Chinese, because it was shown, by the testimony of all the sea captains examined by your committee, that they have been always found wanting in a storm or in danger.

Your committee would state that they have examined witnesses only as to the condition of steam vessels now engaged in carrying passengers, and have only reported on the steamships whose qualifications were under consideration before the committee. In regard to the loss of the steamer Pacific and other vessels, your committee decided that they would not investigate the matter, on the following grounds:

First—All steamships engaged in trade on this coast are directly under the jurisdiction of the General Government and subject to no laws of this State, except such as relate to harbor regulations. The General Government have officers on this coast known as Inspectors of Hulls and Boilers, whose duty it is to see that all of the requirements of the laws are complied with in regard to hulls, boilers, and machinery, and all other appliances necessary for the safety of passengers and cargo. It is also their duty, whenever an accident occurs, to immediately investigate the same and report their findings, together with the testimony taken, to the General Government, which General Government either approves the findings of the Board of Inspectors or orders another investigation. It is a well-known fact that, after the loss of the steamer Pacific, such an investigation was held; the testimony taken at the investigation, together with the findings of the Board of Inspectors, have been published in full and forwarded to the General Government. Your committee are decidedly of the opinion that they have no right to question the integrity of the Inspectors in such investigation.

Second—Every steamship is required to have a certificate of inspection, furnished after an inspection by the Board, which certificate certifies that the vessel has fully complied with the law and is fully qualified for the trade engaged in. Every steamship engaged in trade at San Francisco, so far as your committee could ascertain, has a United States certificate of inspection, and is therefore supposed to be in a good, seaworthy condition. As to whether the Inspectors do their duty in all cases, your committee are not prepared to say. We would take occasion here to state that we cannot too severely reprehend the practice, which has to some extent been recognized, of appointing Inspectors for personal, partisan, or political reasons, rather than on account of their qualifications for the positions to which they are appointed. In view of these facts, your committee would recommend the passage of the following resolution:

Resolved, That the Committee on Federal Relations be hereby requested to prepare, and report to this House for adoption, a concurrent resolution memorializing and instructing our Representatives and Senators in Congress to procure the passage of a law, or to devise some means, to prevent the appointment of persons who are not practical ship carpenters, as Inspectors of Hulls.

J. C. MURPHY,
D. A. OSTROM,
H. RICE,
G. A. ROBERTS,
TH. BAGGE,
M. BIGGS, JR.

TESTIMONY

TAKEN BEFORE THE

ASSEMBLY COMMITTEE ON COMMERCE AND NAVIGATION

RELATIVE TO THE

Seaworthiness of Steamships

BELONGING TO THE

PORT OF SAN FRANCISCO.

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INVESTIGATION

BY THE ASSEMBLY COMMITTEE ON COMMERCE AND NAVIGATION AS TO THE
SEAWORTHINESS OF STEAM VESSELS CARRYING PASSENGERS
TO AND FROM THE PORT OF SAN FRANCISCO.

SAN FRANCISCO, January 12th, 1876.

The committee met pursuant to adjournment, at the room of the Board of Supervisors, at ten o'clock A. M., Messrs. Murphy (Chairman), Pullen, Barber, Rice, Bagge, Roberts, Ostrom, and Biggs being present. T. H. Hyatt, Jr., was sworn to report the testimony in short-hand.

A. M. BURNS, called and sworn by the Chairman.

Mr. Pullen—What is your business?

Answer—Marine surveyor.

Q.—How long have you been a marine surveyor?

A.—About seven or eight years.

Q.—Did you ever command any ships out of this port?

A.—Yes, sir; I did for about seventeen years.

Q.—What is the general condition of the shipping of this port—steamers?

A.—In what? I would like to have you make it more definite.

Q.—The general condition in regard to shipping?

A.—The general condition of the steamers out of this port is very fair, as far as I know. We do not, as surveyors, make particular examination of these vessels unless we have occasion to; and a great many of these hulls are not insured in San Francisco, consequently we are not allowed to cut and bore the hulls. It is only where a certificate is issued that we are allowed to examine critically.

Q.—Do you know of any ship sailing out of San Francisco that the underwriters would refuse to insure—steamships?

A.—I do not know as I do.

Q.—You don't know of any?

A.—No, sir. You must understand, Mr. Pullen, there is a wide latitude in this matter of insurance. Where one vessel would insure for one rate, another would insure for a larger rate. It would depend upon the vessel. I don't know now of any vessel sailing out of San Francisco—

Q. [Interrupting]—It would insure for almost anything?

A.—No; there are a great many sailing vessels that they don't insure at all—that have passed out of the limits of insurance. There are no steamships that are running in any trade that they would not take some kind of risk on; for instance, the California was offered for insurance a few days ago, running from Victoria to Sitka. Some refused to take any risk upon her, still the vessel—

Q. [Interrupting]—Is the John L. Stephens insured?

A.—Her hull—I think not?

Q.—The Ajax?

A.—I think not.

Q.—The Oriflamme?

A.—No, sir; not to my knowledge.

A.—Is the Arizona?

A.—No, sir; not here.

Q.—Where do the Pacific Mail Steamship Company generally insure their ships?

A.—I think the principal insurance of the Mail Company is in France.

Q.—Have they an agency in this city—the insurance company?

A.—No, sir; done from New York; I think so.

Q.—Did you see the Pacific when she was on the dock last?

A.—No, sir; I did not, myself.

Q.—Did you ever sail on the Pacific?

A.—Yes, sir; I commanded her for a great many years.

Q.—You don't know, then, whether she was a sound ship or a rotten ship?

A.—Well, when a ship gets to be her age, you can find soft places about them—all of them.

Q.—How old was she?

A.—I think the Pacific was built in eighteen hundred and fifty-five. She was about twenty years old. I am not positive about that, however. She was built about that time—eighteen hundred and fifty-four or eighteen hundred and fifty-five.

Mr. Barber—You are laboring under a mistake, as far as that is concerned. The Pacific was running on the ——— in eighteen hundred and fifty-three.

A.—I am not particular; I have forgotten about that. In eighteen hundred and fifty-three?

Q.—And before that.

A.—The North America was running in eighteen hundred and fifty-three.

Q.—She was commanded by Captain Bailey?

A.—I don't recollect.

Mr. Pullen—Built by Brown?

A.—Yes, sir; I think so.

Q.—Now, sir, you, as a sea-faring man, and identified with shipping, for a great many years, do you believe—do you consider, under oath, that the Pacific was a sound ship?

A.—Well, I could not state whether she was sound or not, as I had not examined her.

Q.—I am asking merely your opinion.

A.—The only way a man can swear to anything is from positive knowledge, and that I didn't have. I can readily assure you I could find plenty of soft places about the Pacific, but that wouldn't necessarily condemn her.

Mr. Ostrom—I ask if it is pertinent to go into any investigation of the Pacific?

Mr. Pullen—I think so.

The Chairman—I shall decide that we have no authority to examine into the loss of the Pacific at all. If there are any vessels here now carrying passengers out of this port, that are unseaworthy, we will make examination into those vessels.

Mr. Pullen—Mr. Chairman, your ruling seems to be a little one-sided. I didn't suppose that when this committee came down here, but that it was a well-understood fact that we came down to examine into the general condition of ships sailing out of the Port of San Francisco. Now, sir, the Pacific is just as much to be inquired about as any other ship, although she is at the bottom of the ocean; and if this evidence in regard to the Pacific is to be barred out, we may as well close up and go back to Sacramento.

The Chairman [After further argument by Mr. Pullen]—I decide we will not investigate the matter.

Mr. Perkins (of Goodall, Nelson & Co.) made a few remarks inviting the committee to visit any of their ships, and tendering them permission to take an expert, and bore planks and otherwise examine.

Mr. Ostrom—I have understood that the Senator is newly built over from the water-line.

Mr. Perkins—She has been some two or three times. We have, since purchasing her, spent about seventy-five thousand dollars on her. I don't think because a ship is old, you should necessarily condemn her.

The Chairman—The clerk will call the roll on this matter of going into an investigation of the Pacific; those in favor will vote aye, and those against, no.

The roll was called, and resulted in two ayes and five noes.

The Chairman—I shall rule that no question shall be admitted hereafter as to the condition of the Pacific. If the committee desire to question Mr. Perkins he can be put on the stand.

Mr. Pullen—In what condition is the steamship Colorado, do you know?

A.—No, sir; I cannot tell you.

Q.—The Constitution?

A.—I cannot give you any positive information about any of those ships. Those ships hold the certificate of the United State Supervising Inspector; and for our purposes, and insurance, it is all that is necessary for us.

Q.—The William Taber?

A.—The William Taber is a little peculiar ship, but I think the William Taber is perfectly sound, as far as I know.

Q.—So far as you know?

A.—Yes, sir.

Q.—Did you ever make an examination of her?

A.—No, sir; not critically; and I don't see any other way to know unless there is a critical examination.

Q.—The Orizaba?

A.—As I know of the rest, only. I have examined the Orizaba several times—seen her when they have had her on the dry dock, and as far as I can see she is a good ship.

Q.—A sound ship?

A.—As I said before, I can go aboard the Orizaba, probably, and find soft places; and when a ship gets to be eighteen or nineteen years old it is apt to have soft places.

Mr. Bagge—What do you mean by soft places?

A.—Rotten.

Mr. Ostrom—Did I understand you to say that there are rotten places in some of those vessels?

A.—I don't make that assertion. I have no doubt you can find rotten places in almost all vessels of eighteen years old, or over, but that does not follow necessarily that she is unseaworthy. As most of the material of ships is wood, some part must necessarily decay. The Orizaba was taken out some years ago and overhauled; the top of that ship, from the water-line up, is comparatively new.

Mr. Pullen—Do you know whether she was rebuilt when belonging to the California Steam Navigation Company?

A.—The California Steam Navigation Company were rebuilding her when they sold out to Holladay. The ship was, I think, about two-thirds finished, and she was turned over to Holladay, and Holladay finished her. She was at the time entirely rebuilt, opened away down, and new frames and new deck beams and knees; in fact, the top of the ship was almost entirely new.

Q.—Do you know whether the insurance companies of this city take any risks on the John L. Stephens, when the ship has been running?

A.—Take risks on the cargo.

Q.—Do you know whether they do on the ship or not?

A.—I don't think there has ever been any hull insurance asked for. I think I should have heard of it if there had been.

Q.—What is your opinion of that ship—the Stephens.

A.—Well, it is one of that sort of things I don't like to express myself upon unless I am obliged.

The Chairman—Do you know anything positively?

A.—No, sir; not positively. The last time—

Mr. Pullen—Do you know anything about the Ajax?

A.—Not specially; no, sir. As I explained before, unless we are called on to issue a certificate we don't ask to go critically through these ships. It is considerable of a job. It entails expense on the company, and we don't ask it, and they wouldn't allow it, probably.

Q.—During your experience as a sea captain, sailing out of the Port of San Francisco in different ships, did you ever, in vessels under your command, feel unsafe on board any one of those vessels in any emergency?

A.—I don't know. No; but I have seen some rough times in the Pacific. I never felt any uneasiness so far as the hull was concerned. As long as I was certain the engine was safe I didn't feel any uneasiness.

Q.—Did you ever, in any other ship?

A.—Oh, yes; the Orizaba.

Q.—Was you ever in a gale of wind in the Orizaba?

A.—Yes, sir; I was in a gale of wind in the Orizaba before she was half as good a ship as she is now.

Mr. Bagge—Do you think there is a steamer in the harbor here, in so bad condition that an insurance company here in San Francisco would not take some risk on it?

A.—No, sir; as we know now, I don't think there is. There are,

occasionally, some small steamers, but no steamer in the regular trade that the companies would not carry cargo risks on at some price.

Mr. Pullen—Would not they insure on the vessels?

A.—There may be some that they would not insure their hulls; but there are very few that they would not carry a cargo risk on from one port to another.

Q.—You would not take the risk to insure the vessel?

A.—No. There are some vessels here which I would not care to take the risk on the hulls of; if I did, I would put some rate on that they would not pay.

Q.—What are the names of those?

A.—I would not take a risk on the John L. Stephens—on the hull; not that I think the vessel is rotten, but, in general terms, she is a peculiar ship. She is old, and her engine is peculiar.

Q.—The insurance companies would not take any risk on that vessel?

A.—I don't say that; I only speak for my own company; not for others.

Mr. Roberts—In regard to answering the question by Mr. Pullen when he asked about the John L. Stephens; does your delicacy arise from personal reasons, or from want of knowledge?

A.—There are so many things to be taken into consideration when we accept or decline a risk on vessels—we frequently decline risks on vessels that are perfectly good; sometimes from the trade they are going into, where they are running to—various things have to be taken into consideration. This matter of insurance on vessels does not depend entirely upon the vessels, where the trade itself is dangerous.

Q.—I would understand from your way of answering the question, that you felt some delicacy in answering?

A.—You must understand that this matter of insuring is almost a gamble.

Q.—You say it is a gamble?

A.—Of course it does not come under the law of gambling; but at the same time, you can insure anything at some rate. The fire insurance companies of this town, if they don't insure anything but good risks, they would insure but a small part of the town. Insurance is a question of risk.

Mr. Bagge—What rate of insurance do you think the risk would be on the Stephens, that your company would take any risk at?

A.—How high a rate?

Q.—Yes, sir.

A.—That would depend upon the circumstances—of the season of the year, where she was going, what she was to carry, etc.

Q.—Would the commander of the vessel have anything to do with it?

A.—Yes, sir; a good deal to do with it.

Mr. Ostrom—Are you acquainted with the machinery on those steamships that sail out of this port—whether they are first class?

A.—Generally we understand the condition of the machinery. Of course, there are none of the surveyors here that are engineers. We don't pretend to examine the machinery as engineers, and we have to get at the condition of the machinery a good deal from the engineers themselves.

Q.—I suppose dangerous machinery is as dangerous as one of those vessels—almost as much as rotten places?

A.—Yes, sir; a good ship may be torn to pieces by the machinery. The *San Francisco*, a brand-new ship, on her first voyage out from New York, was lost by the machinery breaking down.

Q.—You could not say in that particular whether the machinery—

A.—Of the Pacific?

Q.—No; the *Stephens*.

A.—The machinery of the *Stephens*, I know, is very good.

Q.—You spoke of its being a peculiar kind of engine?

A.—It is what we sailors call a "grasshopper." It has one oscillating cylinder, and she is liable to break down, in my opinion.

Q.—Is an engine of that kind more liable to break down than any other kind?

A.—Yes, sir. I think a beam engine is less liable to break down than any other kind. That is my experience of twenty years.

Q.—To and from what port is the *Stephens* now running?

A.—She is laid up; she is not running in the winter.

Mr. Pullen—She generally lays up in the winter?

A.—Generally lays up in the winter.

Mr. Bagge—This is a "summer ship"—what is called a summer ship?

A.—Yes, she is a summer ship.

Mr. Roberts—Is she one of the vessels you wouldn't like to take a risk on?

A.—Yes, sir; I wouldn't like to, unless I got a very large premium for it.

Q.—How long have the company been in the habit of allowing her to lie up in the winter?

A.—She has not been running north for several winters—I don't remember how many. They generally stop her in the fall, and send her off in the spring again.

Q.—Do you know when she was built?

A.—No, sir; I do not, positively. I recollect when she came out here new.

Mr. Barber—In eighteen hundred and fifty two, I believe, she came out, or in the spring of eighteen hundred and fifty-three.

Mr. Bagge—Suppose that the *Stephens* were going up to Puget Sound, and you were going up to Puget Sound, would you go in her?

A.—In the winter—no, sir.

Q.—In the summer?

A.—Yes, sir; I have been.

Q.—In the winter time you would not?

A.—No, sir; not unless I was obliged.

Q.—You say she wouldn't stand the weather?

A.—She might, but I wouldn't take the chances. I don't care to go in any, for that matter. I would rather go by land. At the same time, I would prefer some other ship to the *Stephens* to go north in the winter.

Mr. Pullen—Did you ever see the *Continental*?

A.—That was lost?

Q.—Yes, sir.

A.—Only as we examine all vessels.

Q.—What kind of ship was she?

A.—The *Continental*? I never considered the *Continental* to be a particularly fine ship.

Q.—She was rated among the insurance companies the same as any other ship?

A.—Her hull was never insured here.

Q.—You insured freight?

A.—Yes, sir.

Q.—Took the risk?

A.—Yes, sir. If *Mr. Pullen* will allow me to explain about our business: We often carry risks in this freight matter that we cannot very well help. For instance, we have a customer who does a regular business with us, and he has goods to ship. Perhaps we do not consider the vessel entirely safe, and he has to carry his risks, or we for him. If we had the choice, we should prefer some other vessels. A combination of circumstances obliges us to take the risks as they come.

Q.—Then you mean to say that there is so much competition among insurance companies that you are obliged to take all that comes along?

A.—No. They would very much prefer other vessels if they were here; but the vessels are not here, and we have to do business with the tools that we have.

Q.—You did not explain about the *Continental*?

A.—I have almost forgotten about her. It is some years since she was lost.

Q.—She foundered, didn't she?

A.—Yes, sir. I never considered her a first-class vessel.

Q.—Are there any other steamships you know of, sailing out of the Port of San Francisco to-day, that are in no better condition than the *Continental* was at the time, in your estimation?

A.—No, sir; that is a question I cannot answer. As I said before, a man could not—a surveyor could not—answer any such question as that without he made a special survey of the ship to find out.

Q.—You had a survey of the *Continental*?

A.—Yes, sir. We carried risks on the *Continental* as well as all the rest.

Q.—Didn't you consider the *Continental* at that time as good as some of the ships sailing out of this port to-day—that is, better?

A.—Well, no; I think that the *Continental* was in worse condition than any ship we have running here now in any regular trade.

Q.—You think so?

A.—Yes, sir.

Q.—Captain, did the insurance companies ever inquire, in taking their insurance, whether there was an efficient crew on board those ships, and what those crews were composed of?

A.—Yes; they generally try to understand what the condition of the ships is, and the standing of the masters. Of course we have no right to dictate to anybody whom they shall ship; we simply can decline to take the risk in certain cases.

Q.—Do you know what kind of sailors Chinamen are?

A.—As *Mr. Bagge* expressed himself with reference to a ship, just now, I think they are a kind of summer sailors—very well in fine weather, where there is no accident, or anything of that kind.

Q.—Did you, or any of the underwriters, ever enter insurance on the freight of the *America*, or *Japan*, here in this city?

A.—Yes, sir; a good deal of insurance on the Japan when she was lost.

Q.—Did you ever hear any remarks at any time that if there had been a different crew on board the ship they might have saved her?

A.—No, I don't know as I have.

Mr. Ostrom—You think, Captain, these China crews are not sufficient in a gale of wind or storm?

A.—No, sir; not as reliable sailors as white men in an emergency. Otherwise I think they are quite as good; in good weather they are easier handled—kept in better discipline.

Q.—From what you know of these Chinese on board our steamships, have you ever formed an opinion that the loss of any of those vessels could have been prevented if they had not had Chinamen as sailors?

A.—No, sir.

Mr. Bagge—You think the Chinese sailors, when there are no storms—where they are going along in smooth water—the Chinese sailors are good summer sailors?

A.—That is what I should call them.

Q.—You wouldn't like to go to sea in the winter time in the Stephens with a Chinese crew?

A.—No, sir.

Mr. Perkins—The Orizaba having been referred to, I wish to ask if you do not consider her a staunch and seaworthy ship?

A.—Perfectly so.

Q.—You represent an insurance company?

A.—Yes, sir.

Q.—Would you have any hesitation, Captain, in taking a risk on the ship of any reasonable amount in value, while she was plying in the trade in which she now is?

A.—No, sir.

Mr. Biggs—Would you have any hesitation in taking a risk on the present steamer Senator?

A.—No, sir.

Q.—While in the southern trade?

A.—Yes, sir.

Q.—Suppose she was running in the northern trade?

A.—I would not consider the Senator a fit vessel to run north during the year. The Senator, of her class, is a first-rate vessel; always has been a good vessel.

Mr. Perkins—The reason why you don't consider her fit to run north is because she has low guards?

A.—Yes, sir.

Q.—You consider the Senator to be a good, staunch, fit ship?

A.—For the trade she is engaged in.

Q.—And you would have no hesitancy in writing a risk for her?

A.—No, sir; none at all.

CHARLES WILSON, called and sworn.

Mr. Pullen—What is your business?

Answer—Marine surveyor.

Q.—For what insurance company do you survey?

A.—I don't survey for any company to take risks upon the hulls at all.

Q.—You don't take any risks on hulls?

A.—No, sir.

Q.—How long have you been a surveyor?

A.—A marine surveyor for about four years.

Q.—How long in the Port of San Francisco?

A.—Since eighteen hundred and forty-eight.

Q.—Of San Francisco?

A.—Yes, sir; I came to San Francisco in eighteen hundred and forty-eight.

Q.—How long have you been in San Francisco?

A.—Off and on all the time, following the sea.

Q.—How long have you been a marine surveyor?

A.—Four years.

Q.—In the Port of San Francisco?

A.—Yes, sir. Before that I was Port Warden.

Q.—You have commanded vessels out of this port?

A.—Yes, sir.

Q.—You heard the statement of Captain Burns in regard to the different steamers sailing out of San Francisco?

A.—I did, sir.

Q.—You heard the statement in regard to the condition of the different steamers sailing out of the Port of San Francisco?

A.—Yes, sir.

Q.—Now, Captain, what is your opinion of those ships?

A.—Well, as a rule, I think they are pretty fair ships. I have not examined them closely, because I had no occasion at all to do it.

Q.—You had no occasion to examine them?

A.—No, sir.

Q.—You don't know anything of the condition of the several ships that have been lost, for instance the America, the Japan, the Pacific?

A.—I know about them all superficially.

Q.—What kind of a ship was the Pacific?

A.—I considered—

The Chairman—You need not answer that question, Captain.

Witness—About the other vessels, lost on the coast of Mexico, I know very well the Continental.

Q.—What kind of a ship was she?

A.—I consider her a very good vessel. I think she wanted caulking more than anything else. I think if she had been caulked and coppered in time she would have been—

Mr. Ostrom [Interrupting]—We don't want to go into an investigation of the loss of the Pacific, but I have for myself no objection to any question that would concern the Pacific before she left this port, or before she sailed.

The Chairman—I have no objection to any gentleman stating what he knows, but his opinion is not what we want.

Mr. Pullen—Do you know anything of the condition of the Pacific?

A.—No, sir; I have been on board of her often, but never examined her critically.

Q.—Do you know the condition of any steamer sailing out of San Francisco?

A.—Superficially I do; but I have never bored into them. I have seen them on the dock—the Orizaba and the Senator—and their bottoms are very good.

Q.—The Senator very good?

A.—Yes, sir; very good for that trade.

Q.—The Orizaba, also?

A.—Yes, sir; for that trade they are very good vessels.

Q.—Would you take insurance on the Orizaba in case she were running north?

A.—As I said before, I don't represent any company that take any risks on hulls.

Q.—In case you did?

A.—Then I would go on board and examine. My opinion is that I would.

Mr. Ostrom—Your opinion is, you would not take any risk from what you know superficially?

A.—We go on board and see if they are strained, and we watch to see if they are kept in good order—the sails, rigging, etc.

Q.—You take risks on freight on board good ships?

A.—Yes, sir. I do not. I am not connected with a company at all.

Q.—Do you ever inquire into the efficiency of the officers of those ships?

A.—No, sir. I have no connection with any company; only, if they want me to go on board and examine the ship, I do so.

Mr. Bagge—Don't you believe that many of the old vessels are better than the new vessels built lately?

A.—Yes, sir; many of them are built of the very best material—of live oak. The fastenings in the old vessels are much better than in the new. They substitute iron for copper in the new vessels. The models of the old vessels were much shorter, and therefore stronger and better on that account. Formerly vessels were not built so large.

Q.—Don't you think, when the City of Peking arrived here in San Francisco, for a new vessel she was in very bad condition?

A.—When the City of Peking arrived here, she had been a good deal slighted in the construction; but her material is excellent. She is to-day a good ship; could not be better. I have examined her thoroughly, on the dock and afloat.

Mr. Ostrom—You said you thought the Orizaba was a very good ship for the trade she was engaged in. I would like to ask what trade she is in, or what line she is running on?

A.—She is running down to San Diego, and about there. She has been doing that all the time.

Q.—You think there are some routes, then, that she would not be sufficiently strong for?

A.—In the winter she is not a desirable vessel to run up north.

Q.—She is a summer vessel?

A.—No; I don't mean that. She is a good vessel to run; there is an excellent man in her, and she is kept in excellent order. She is not strained, not hogged—anything at all.

Mr. Perkins—It is about four months since—five or six months—since you had occasion to examine the Orizaba, Senator, Mohongo, and Los Angeles. Please state to the committee your general impression about them. Were they well officered and manned, and were they well supplied with all the appliances that go to make a well-fitted out ship for sea?

A.—I went on board of them and several others—

Q. [Interrupting]—These are the four largest passenger ships?

A.—I went on board and took a superficial examination, looked at the machinery, etc., and, as a rule, I found them to be very good ves-

sels, and in good order. Of course, they are not vessels I would recommend to go around Cape Horn, or to China.

Q.—Your general impression was such that you had reason to believe that the owners of those vessels cared sufficiently for their property, if not for the lives of others, to take care of them?

A.—Yes, sir; I reported them to—

Mr. Bagge—Suppose you were in command of a steamer, and were to select sailors, would you take Chinese sailors on board your vessel?

A.—Not if I could avoid it.

Q.—Don't you think in case of storms or accident they are a bad set?

A.—Yes, sir; of course, in bad weather they get demoralized.

The Chairman—Mr. Perkins, is there a Chinaman in your employ?

Mr. Perkins—There is not a Chinaman in our employ, that I know of, not one in our employ, even a dish-washer.

A. Y. TRASK, called and sworn.

Mr. Pullen—What is your business?

Answer—I am engaged as a marine surveyor.

Q.—How long have you been in that occupation?

A.—About between four and five years.

Q.—In the Port of San Francisco?

A.—Yes, sir.

Q.—Did you ever own any vessels out of this port?

A.—I have for twenty-two or twenty-three years; since eighteen hundred and fifty-three until the last five years.

Q.—Did you ever own any steamships?

A.—No, sir.

Q.—Sailing ships?

A.—Sailing ships, altogether

Q.—Are you acquainted with the general condition of the shipping in this port?

A.—Well, most of them; most all, with the exception of the Pacific Mail Steamship Company's ships, I am not acquainted with them; but Goodall, Nelson & Co.'s ships I am acquainted with, because we carry risks on—take cargoes every day, and have had some hull risks.

Q.—Does your company insure any of their steamers sailing out of San Francisco?

A.—Yes, sir.

Q.—Insure their hulls?

A.—Yes, sir.

Q.—Are there any steamships here that your company has refused to insure.

A.—I don't remember of any, now, that has been offered us that we have declined. There probably are steamers here that we should decline if offered.

Q.—Do you know of any that you would decline, if offered?

A.—I could not tell without examining.

Q.—Do you know of any running out of the Port of San Francisco that is not insured?

A.—I know lots that are not insured here. The Pacific Mail Company's ships are not insured here, nor the Oregon Company's.

Q.—Goodall, Nelson & Co. insure their ships running south?

A.—They insure running south. I think we had insurance on the Los Angeles and on the Pacific.

Q.—How much insurance had you on the Pacific?
 A.—We had five thousand dollars on the hull.
 Q.—Did they want you to take any more?
 A.—No, sir.
 Q.—What was the condition of the Pacific?
 A.—I considered her a very good ship.
 Q.—A sound ship?
 A.—A sound ship. Yes, sir; I considered her a sound ship.
 Q.—Now, do you know anything about the steamship Idaho?
 A.—No, sir.
 Q.—Do you know anything about the steamship —?
 A.—No, sir.
 Q.—The Montana, the propeller?
 A.—Yes, sir; I do. About eight months ago—you refer to the Montana running to the Colorado River trade?
 Q.—Yes, sir. What condition was she in?
 A.—I considered her condition, about eight months ago, good.
 Q.—What condition was her machinery in?
 A.—I am not a judge of machinery—merely the hull.
 Q.—The insurance companies—don't they also have the machinery surveyed?
 A.—Yes, sir.
 Q.—Or merely the hull?
 A.—We generally ask the engineer—get all the advice from the engineer we can on the subject.
 Q.—They do not have any engineer employed of their own?
 A.—No, sir; the engineers employed by the companies.
 Q.—How long do you say you have been a surveyor of this port?
 A.—About four years.
 Q.—Did you ever know anything of the George Wright?
 A.—No, sir.
 Q.—Did you ever hear in what condition her machinery was?
 A.—No, sir; I did not.
 Q.—You don't know then of any steamers sailing out of this Port of San Francisco that you would be unwilling to take risks on?
 A.—There may be. If I were called on to survey, after survey I might be unwilling to take the risk. When there is a ship offered—a risk—then I go and survey the ship.
 Q.—Did you ever refuse to take a risk on any ship?
 A.—Well—sailing ships, lots of them.
 Q.—Steamers?
 A.—Not steamers. Very few steamers that are offered—very few. We take cargo risks on all of them.
 Q.—You have heard the evidence of the other two witnesses?
 A.—Yes, sir.
 Q.—How do their ideas correspond with yours in regard to those ships?
 A.—Well, I think that our ideas are pretty near the same. Captain Burns has been sailing on steamships out of this port for a number of years, and perhaps he is a better judge than I am in regard to those steamers.
 Q.—Did you know in what condition the Great Republic arrived here, the last time she arrived from China?
 A.—No, sir; never have occasion to go on board those ships to make any inquiries or examinations.

Mr. Bagge—If a vessel were going to sea, a steamer, and she was manned by Chinese—if most of the sailors were Chinese—would you not ask a higher premium than if they were white sailors?

A.—I don't like the Chinese as sailors. I don't consider them competent men for seamen.

The Chairman—What would you think the rates of insurance would be, higher or the same?

A.—It should be higher. If I had a voice whether they should be white men or Chinese, I should double the rate for Chinamen.

Mr. Barber—You would take a risk on a steamer by asking the engineer what state his engine was in?

A.—That is about the only way I could get at it, not being a judge myself.

Q.—I didn't suppose you would be a judge of an engine. I wanted to know if that would be as far as you would go—what the engineer would tell you?

A.—That is, if I thought him a competent man I would take his advice; if I had any doubts of the man, I could go further.

Mr. Ostrom—Did you ever, in your experience in this matter, get an opinion from an engineer adverse to the ability or in any way damaging to the engine on board of any of these ships?

A.—No, sir; I don't think I did.

Q.—They always report favorably?

A.—They always report favorably; yes, sir.

Mr. Perkins—You state, Captain, you are familiar more particularly with the ships belonging to our company?

A.—Yes, sir.

Q.—Please state to the committee how you have been impressed as to the condition of those ships, their findings and equipments, to make them sea-going vessels—I speak more particularly of our passenger ships in the southern trade—your opinion?

A.—All of those ships that I have examined I have been well satisfied with.

Q.—You would have no hesitancy, Captain, in writing a risk—a policy of a reasonable risk—in favor of those steamships?

A.—No, sir. I have traveled on several of them on the southern coast route, and I have always found them in good condition, well officered, and manned.

Q.—Don't you think they compare favorably with ships belonging to the same latitude on the Atlantic coast?

A.—I don't think they have any better on the Atlantic coast.

Q.—A rumor has been floating around that admission has been denied—that the owners would not permit the surveyors to survey any of their steamers. Will you please state to the committee if any such rumor has any foundation whatever, as far as our vessels or steamers are concerned?

A.—I have never heard of it before.

Mr. Barber—Mr. Perkins has asked you about their passenger ships running south. What about his passenger ships running north?

A.—I am not aware that they have any running north now.

Mr. Perkins—We are not running north.

Q.—Will you please state to the committee what is your opinion of the Los Angeles, or the Mohongó, for ships running north, and also the Orizaba?

A.—As to the Los Angeles, I would rather prefer you would ask

Captain Williston (?) that, for I think he was on her last winter in a gale of wind between here and Victoria.

Q.—Your own opinion?

A.—I have not been to sea on the ship, but I have examined the ship on the dock, and been all through her, just as far as you can go through a steamer, and I think she is as good a steamboat as is sailing out of San Francisco.

Q.—Don't you think it a very high encomium for a steamer, after breaking her propeller in a gale of wind, to go three hundred miles into port under sail?

A.—I think she did nobly, myself.

Q.—That is the feat performed by the Los Angeles.

Mr. Ostrom—The witnesses that have occupied the stand have stated their facilities for examining the hulls of these vessels—that their examinations have been superficial—that they have not bored, etc. Has yours been the same?

A.—Well, we bore when we are called upon to examine a ship—if we see fit. When we are called upon to examine the hull of a ship—when the owners of a steamship apply to the underwriters for insurance on the hull, they must grant them the privilege to bore.

Mr. Biggs—How many ships have you ever examined belonging to Goodall, Nelson & Co., within the last year?

A.—Well, I think I have examined some four or five.

Q.—Please mention their names?

A.—There is the Orizaba, the Senator, the Los Angeles, the Pacific.

Mr. Perkins—The Mohongo?

A.—No, sir; the Constantine.

Mr. Biggs—What was the condition of those vessels?

A.—We considered them good.

Q.—How long has it been since you examined them?

A.—Within the year.

Mr. Pullen—In what way did you examine them?

A.—We would go there—

Q.—Did you bore the hulls?

A.—No, sir; but sounded; and if there was any defect, any soft wood, by sounding we could ascertain it.

Q.—On the dock at the time?

A.—Examined the most on the dock.

Q.—When on the dock you examined inside and out?

A.—Inside and out.

Q.—Was the planking rotted off inside?

A.—No, sir.

Q.—You did not examine the inside of the inside sheathing?

A.—I have been all through and sounded.

Q.—Could you tell by the sounding on planking on the inside whether she was sound or not?

A.—Yes, sir; if you strike you can tell in an instant.

Q.—If you strike over the knees?

A.—The knees are generally outside; you can see them yourself.

Q.—The ribs, I mean; if you were to strike on them?

A.—We never look for rotten timbers below the water line. They are always above the water line, where we look for defects. We look for weak fastenings below the water line. The fastenings—the iron fastenings—may have perhaps all gone, but you will find the timber good. They require fastening, those ships do, every ten or twelve

years, where the fastenings are of iron; but if they have fastenings of copper, why, they run much longer.

Mr. Perkins—If a ship is not sound, will not a casual observer see it?

A.—Scarcely; no; unless he is looking very closely for it.

Mr. Pullen—Did you ever see a piece of timber in a ship that looked sound on the outside, that on the inside was all rotten?

A.—Yes, sir; very often.

Q.—Unless closely examined?

A.—Yes, sir.

Mr. Perkins—By tapping it would give evidence whether there was a defect or not?

A.—Yes, sir.

Q.—Do you know whether there are any ships in San Francisco that have got such timbers in, at the present time?

A.—I don't know as I do. There was a sailing ship stripped here about two months ago, that had lots of such timbers in her. She was a ship that looked perfectly sound, but come to take off the planking, they found the planking perfectly rotten.

Mr. Pullen—The Mohongo has been running up north, has she not?

A.—No, sir; I think not.

Q.—Do you think the Mohongo would be a safe ship to run north?

A.—I could not say; I should not think she would.

Q.—She is an iron ship, is she not?

A.—Yes, sir; I should not think she would be so good for the northern trade as for the south.

Q.—A flat-bottomed ship?

A.—Yes, sir; for shallow water.

CORY WILLISTON, called and sworn.

Mr. Pullen—You are a marine surveyor, also, I suppose?

Answer—Yes, sir.

Q.—How long have you been a marine surveyor of this port?

A.—About four years and a half.

Q.—How long?

A.—About four years.

Q.—What company?

A.—Fireman's Fund.

Q.—Have you any risks on any steamers, passenger-carrying ships, running to and from San Francisco, in your company?

A.—Yes, sir.

Q.—What ships are they?

A.—Montana, Newbern, Los Angeles.

Q.—Do you take risks on all passenger sailing ships out of San Francisco—your company?

A.—On the hulls?

Q.—Yes, sir.

A.—Yes, sir; we do; that is, if I like them; if I recommend the company to take them—ships that I have examined, you know, and seen what condition they are in—I recommend our company to take them, providing the rate of premium is satisfactory.

Q.—If you find them in good condition?

A.—If I find them in good condition; yes, sir.

Q.—In case they are not in good condition, what then?

A.—Then I should recommend them not to take them.

Q.—Did you ever refuse to take any risks on steamers sailing out of the Port of San Francisco?

A.—No, sir; I don't think we have.

Q.—You take all that comes along?

A.—No, sir; they don't give them to us. There are a good many we would like to have if they would give them to us.

Q.—What is the condition of the steamers, passenger-carrying ships, sailing out of this port?

A.—As a general thing, I have found them in good order.

Q.—Good, are they?

A.—Yes, sir.

Q.—Did you ever examine the Continental?

A.—I never did.

Q.—Did you ever examine the Pacific?

A.—Yes, sir.

Q.—She was a good ship?

A.—Yes, sir; I considered the Pacific a good ship. I was on the survey.

Q.—How long is a ship, as a general thing, calculated to be serviceable after she is built?

A.—A ship?

Q.—Yes.

A.—You can make them serviceable for a hundred years or longer.

Q.—American shipping?

A.—I don't consider an old ship like an old man. An old ship you can build over, and it will last forever, but an old man you cannot. You can take the timbers out of a ship, and put in new and refasten her, and they are good as long as those timbers are good; it makes the ship as good as when new. I know ships out of New Bedford—whalers—fifty years old, and as good as new. They would take out the defective wood, and put in new; and they preferred them.

Q.—As a general thing, how long a time before this timber begins to decay?

A.—I have known timber to decay in five years, and then I have known it to be perfectly sound in twenty years. It depends entirely upon the season of the year the timber is cut, and the precautions taken in regard to it.

Q.—Do you know anything about the Dakota?

A.—I know that they rebuilt the Dakota. I saw her rebuilt over there. I had no particular interest in her. I know we wouldn't have any application for insurance on the hull. She has a certificate, I presume, from the Inspector of Hulls of the United States.

Q.—She was stripped from the keel up?

A.—I can't say whether she was stripped from the keel up or not. Timber is not usually rotten from the bottom. I consider the Dakota a good ship.

Q.—Are you a mechanic, Captain?

A.—No, sir; I am not a mechanic. I am a sailor—used to be.

Q.—Do you know what a ship the size of the Pacific, or those different steamships sailing out of here—what the size of the timbers it would be necessary to have in those ships, and what is the amount of timber that would be required to make a ship staunch and seaworthy, for instance about the size of the Pacific?

A.—I should think her floor timbers, fifteen or fifteen and a half by eleven, would make a good frame—twenty-two by fifteen. I want you to understand I am no mechanic; but if you want to know how to build ships, I have a book here that tells all about it.

Mr. Roberts—You are speaking of the vessels you have examined here in this port, belonging to the different steamship companies in this port; how long since you examined any or all vessels that belong to the different companies?

A.—I know Goodall, Nelson & Co.'s.

Q.—All of them?

A.—Well; I will say that I have never had much to do with the Pacific Mail Steamship Company's ships. It has never come in my line, and I have never been called upon, therefore I have never had much to do with them; and Goodall, Nelson & Perkins' ships, I have examined several of them.

Q.—I wish you would go ahead and state to this committee what ships you have examined of Goodall, Nelson & Perkins, and what condition you found those ships in.

A.—I will start with the Pacific first. I was called upon to survey the Pacific in company with two or three others. I spent at least three hours on board her, and crawled all under her boilers to see if there were any rotten timbers, and all around under the engine, and greased myself all over. I found that they had taken out the ceiling. They had opened the ship in her bilge; it had been recently done. They had taken out seven streaks. All her ceiling was taken out from the bilge keelson, and that is where you will find rotten wood, if anywhere; and they had replaced by new. I didn't see the frame; but I presume that they wouldn't cover up rotten wood. They wouldn't have much of anything to fasten it to. I presume they had taken out all the rotten wood that was there. They had put seven beams in, and several new knees, and all her knees had been refastened; and they had put in a number of truss-beams, and they were all right; and I found her bows well tied up, and her — filled up with dead wood. We went in all through her, and sounded all the engine-frame, and I could not find anything that was rotten about it. In fact, it was full of oil, and could not rot. She had three keelsons, all as sound as —; in all, she had seven keelsons.

Mr. Pullen—Did you say you got under her boilers?

A.—Yes, sir; I got pretty well under her boilers.

Q.—You swear that you got under the water bottom?

A.—I got under the boiler. I am no engineer; but I know sound wood when I see it. I know a good built ship, too.

Mr. Roberts—Did you consider that ship as well fixed as ships ordinarily are?

A.—I considered her perfectly safe for the business she was in; so much so, that I recommended our company to take ten thousand dollars on the hull. And they also carried three or four thousand on freight—on the cargo. If I had not thought she was, I am sure I wouldn't have recommended.

Q.—How long was that before that vessel was lost?

A.—I think she made two trips after that survey.

Q.—Did you charge insurance on the Pacific as cheap as you did any other vessel running north at that time?

A.—No, sir. An A1 vessel we take less than an A2 vessel.

Q.—Did you charge more insurance than on any other running up north at that time?

A.—No; about the same.

Q.—What was your risk?

A.—A2 we rated her.

Mr. Pullen—For any specific time?

A.—No; the reason was, we had not seen her bottom, but it was to be taken out the next trip. We only survey for our own company. We don't survey for anybody else. If we think the risk is a good one and we can make money on it, we take it; if there is no money in it, we refuse it.

Q.—Did you ever command any vessel out of this port?

A.—Yes, sir.

Q.—Any steamships?

A.—No, sir.

Q.—I would like to have you go on and state as to Goodall, Nelson & Perkins' vessels.

A.—I consider her a good, safe ship—the Los Angeles. I have examined her. I have kept the run of her all the time she was rebuilding.

Mr. Roberts—When was she rebuilt?

A.—I think it was a year and a half or two years ago.

Q.—What was the name of the Los Angeles before she was rebuilt?

A.—The Wyanda. In eighteen hundred and seventy-four she was rebuilt.

Q.—She came around Cape Horn?

A.—Yes, sir. She was built in eighteen hundred and sixty-six. She was a cutter.

Q.—A Government vessel?

A.—Yes, sir.

Q.—Was this Wyanda sold here at public auction?

A.—Yes, sir; I believe she was. I don't know whether it was at public auction or whether—how they came in possession of her. I never understood, though, that she was sold because she was rotten. I understood she was sold because she was an expensive and larger boat than was wanted.

Q.—How long since you examined the ship Los Angeles?

A.—November tenth, eighteen hundred and seventy-five.

Q.—In what condition did you find her when you examined her?

A.—I found her in very good condition.

Q.—Throughout?

A.—Throughout; yes, sir. I could not see that she had ever worked any, or kedged, [caged?] or any strain about her since they rebuilt her; and I examined all her knees, on every part of her.

Q.—Was that before or after she went up to Oregon?

A.—That was before.

Q.—Have you examined her since?

A.—I have not.

Q.—Did you give her as thorough an examination as you did the Pacific?

A.—Yes, sir.

Q.—And it was equally satisfactory to you?

A.—Yes, sir; I recommended our company to carry a full line on her.

Q.—How did she rate?

A.—The Los Angeles, one and a half, four years, I think.

Q.—What other vessels belonging to Goodall, Nelson & Perkins have you examined?

A.—I have never examined the Orizaba. I have been on board the Ancon. She was rebuilt here two or three years ago.

Q.—How long since you examined the Ancon?

A.—I never gave her a thorough examination, because I didn't think it was necessary. They didn't call on us for any insurance on her, and if we haven't any interest in them we don't—as far as I have ever seen the Ancon, I consider her a good safe ship; and we would be glad to take a risk on them—all of them.

Mr. Biggs—Did you ever examine the John L. Stephens?

A.—No, sir; never did.

Q.—Don't you know anything about her condition?

A.—No. I know a few years ago she was retopped; one deck was taken off her, and she was retopped—I don't remember how far down; but I remember distinctly of seeing her top all taken off her.

Mr. Pullen—She had a new deck put on, I think?

A.—Well, she had new paddle-boxes, and new guards, and new water-ways.

Mr. Barber—Wasn't the John L. Stephens condemned one time, ten years ago?

A.—I couldn't say. I know she was laid up at —; that was where this work was done.

Q.—The first time after being condemned didn't she go to Sitka?

A.—I think she went to Mexico. I think they fitted her up and turned her over to Holladay. I don't recollect. I was not a marine surveyor then. Don't know many vessels—owned a good many of them myself.

Mr. Ostrom—I suppose you class this Los Angeles about the same as the Pacific?

A.—Oh! no, sir; class her better—a newer ship.

Q.—At what rate was the Pacific classed?

A.—I consider the Los Angeles a good safe boat; as good as on the coast. Of course, we didn't rate her quite so high, because her bottom is a little older.

Q.—You consider that all of Goodall, Nelson & Perkins' steamships are qualified to go to all parts of the world, in any season?

A.—O, no; you can't get me on that. They are sufficient to go to any part of the Pacific.

Q.—Don't you think any ship, to be qualified, ought to be able to go to any part of the world?

A.—No, sir; I think the hull of the ship ought to be just as good; but there is the rigging. Those small boats of theirs you could not send to Liverpool.

Q.—To weather the storms don't you think they ought to be qualified to go anywhere?

A.—Yes, sir; that I admit. If going a long voyage, for a storm, they would want to be rigged properly.

Q.—I am not talking now about the rigging.

A.—I think them perfectly safe to go anywhere and ride out a storm. If not, they wouldn't be fit to come out here. We have some pretty hard blows here sometimes. I would recommend our company to take a risk on all their boats.

Mr. Perkins—You have stated, in relation to the Pacific, your opin-

ion. Do you not believe the same disastrous results would have occurred had the Pacific been a new ship?

A.—Yes, sir; the same thing.

Q.—When you made the survey you have spoken of to the committee, and your opinions and others, what was your own opinion, and that of those associated with you? Were not the results better than you had anticipated, having heard a rumor that she was an old ship?

A.—Yes, sir; I was very much disappointed. I found her very much better than I expected. One thing more. They had put diagonal pointers all over the amidship kelsons—the lower end resting on the new streaks—and they were well bolted with through bolts.

Q.—The passenger ships Senator, Los Angeles, Ancon, and Constantine, that have been referred to, and mentioned before the committee—you say of your own knowledge what you know of them—you would have no hesitancy in writing a policy on them?

A.—None at all; I would be glad to get it.

Q.—You have examined those ships from time to time; what is your general impression as to the findings of those ships?

A.—I think them well found, as far as I have seen.

Q.—They bear evidence on the face that we use our best efforts to select able officers and men, and to provide for the comfort and safety of those that travel on them?

A.—I think so.

Q.—There has been a rumor around that we had not extended to the port surveyors here—had not manifested a disposition to give them every facility for examining our ships, for boring or taking the planks off. Do you know, of your own knowledge, any time that we, or any one authorized by us, have refused to extend every courtesy to the port surveyors of this port to examine those ships?

A.—Right to the contrary. You have always asked me to go down; and every time you have seen me you have asked me to go down and see if anything was wanted. Captain Goodall has generally, and Mr. Nelson, also, always asked me to go down and look at the ships.

Q.—It has been asked you if ships should not be built of sufficient strength to go to any part of the world. Is it customary for ships plying on the coast of England, the United States, the Atlantic coast—is it customary that those coasting vessels should be such ships as those of the Inman and Cunard lines?

A.—Oh, no, sir. I don't think they would be very good on the coast.

Q.—It would be utterly impracticable to run them on this coast, would it not?

A.—Yes, sir. They could not get into Salinas River. They would be poor things to lie at the Port of Santa Cruz in bad weather.

Q.—What is your opinion, then, comparatively speaking, as to the class of ships in our line only? I want you to state to the committee what your opinion is, comparatively speaking, of the ships engaged in this latitude, as compared with those in the same latitude on the Atlantic coast.

A.—I think they are just as good as they are there.

Q.—You say, as a nautical man, that our ships compare favorably with other ships in the same latitude in other parts of the world?

A.—I do, sir.

Mr. Barber—When I speak about the qualities of ships, their ability to go to other parts of the world, I know that ships of the size of the Inman line wouldn't do to go to Santa Cruz?

A.—I think those ships are all good, safe boats; good, safe boats.

Mr. Pullen—Do you think the Los Angeles, the Ancon, the Mohongo, and the Orizaba would do to run between New York and New Orleans?

A.—Yes, sir. They have got worse boats than they running there, or used to have; I don't know as they have now.

AMOS NOYES, called and sworn.

Mr. Pullen—What is your business, a surveyor?

Answer—Marine surveyor.

Q.—For what company?

A.—For the Swiss Lloyds' Agency.

Q.—Have you any risks in your company on any passenger vessels sailing out of this port?

A.—We take cargo risks. We take risks on hulls.

Q.—Had you any insurance on the Pacific?

A.—No, sir; I don't think we were asked to have any on that, if I recollect.

Q.—Did you ever survey the Pacific?

A.—Yes, sir; I surveyed her about two years and a half ago, when she underwent considerable repairs.

Q.—That was when she belonged to Holladay?

A.—I don't know—two years and a half ago, when she had very considerable repairs, and I have seen her several times since. I surveyed her, likewise, last summer. I went on board with several other gentlemen.

Q.—You are pretty well acquainted with the shipping of this harbor?

A.—Yes, sir.

Q.—How long have you been a surveyor?

A.—Some twelve years; but I don't do so much business as I did formerly. Formerly there were only two surveyors, and now there are ten.

Q.—Do you know, during the time you have been a surveyor of ships out of San Francisco, of any ships you would have refused insurance on?

A.—I don't recollect any, at this moment.

Q.—In the course of your experience while you have been here?

A.—Any ship or steamboat?

Q.—Steamboats and steamships.

A.—Yes, sir. I refused insurance on the City of Peking, last summer.

Q.—Any others?

A.—I don't recollect.

Q.—The Alaska?

A.—No, sir.

Q.—You insure the Pacific Mail Steamship Company's ships?

A.—All of them; yes sir.

Q.—Do you survey for those ships?

A.—I have surveyed them in years past—every one of them.

Q.—Have you surveyed any the last year?

A.—The Constitution, the last year.

Q.—What condition did you find her in?

A.—In a very fair condition.

Q.—Did you consider her a first-class ship?

A.—Not tip-top; but a very good ship.

Q.—What do you class her?

A.—I think I classed her A1, but not for a great many years. I didn't give her a long number of years; that decides whether they are tip-top or not. If you give them a good many years, that denotes they are superior; if you give them A1 for two years, it is not so good as A1 for seven or ten years.

Q.—What is the difference between A1 and A2?

A.—There are five (?) different grades. A2 is just barely insurable. When below that they don't take them, unless they have an extra premium.

Q.—Do you generally specify the time in insuring?

A.—Not with A2; we do with A1, often.

Q.—You leave a blank?

A.—Yes, sir.

Q.—Did you ever survey the Continental?

A.—I don't recollect that I did. She was lost in the Gulf of California three or four years ago; I don't recollect that I did; I can't say—it is a long while ago.

Q.—What is your opinion of that ship?

A.—She was weak in the stern; that was probably the reason of her loss.

Q.—Did your company take any insurance on that ship?

A.—No, sir; I don't think we did.

Q.—Would you have insured on that ship?

A.—I think we should.

Q.—Would you have insured the hull?

A.—Yes, likely, at that time.

Q.—Is there any competition here between insurance companies—the underwriters—of this city?

A.—Yes, sir; some competition.

Q.—In insuring ships in your companies, for instance, insuring ships of the Pacific Mail Steamship Company, and Goodall, Nelson & Perkins' fleet of steamers, they sign risks, as a general thing, do they not, on them all?

A.—The mail company don't insure any of their ships. Goodall, Nelson & Perkins don't insure any of theirs, running south; and I don't think they ever put them in by the lump that way.

Q.—I am not speaking of Goodall, Nelson & Perkins; I am speaking of others also.

A.—The Oregon Steamship Company—they have got four or five steamers, I think: the Ajax, Oriflamme, John L. Stephens, Idaho, and the California.

Q.—They have got the Pelican?

A.—That, I think, belongs to Holladay.

Q.—What does the Pelican rate at?

A.—She is a steel vessel. She was a blockade runner, and is built principally of steel. I don't think she rates A1, but she would be insurable.

Q.—Does Holladay have his ships insured in your company?

A.—I think not.

Q.—Did you ever survey the Ajax?

A.—Some time ago; not very recently; not within two or three years; I haven't been called upon to survey her.

Q.—What kind of a ship do you think she is?

A.—I think a ship that would rate one and a half.

Q.—Did you ever own any ships out of this port?

A.—No, sir; I came here in command of a ship, a good while ago; but I have been living here ever since.

Q.—Do you know of any ships sailing out of the Port of San Francisco—steamships—that you would not insure?

A.—I don't think of any now.

Q.—You don't know of any?

A.—No, sir.

Q.—Have you within the last twelve years known of any, except the City of Peking, that you mentioned?

A.—There was the Nebraska, and Nevada, were found rotten, but one has been hauled up, and the other has been repaired very thoroughly. They wouldn't have been insured in the condition they were, unless repaired.

Q.—What kind of ship is the Dakota? She belongs to the Pacific Mail Steamship Company. She is running up north, I think?

A.—I don't know as I can say. I don't recollect the Dakota. She was very extensively repaired, I think, last winter. She was very rotten when they opened her, and they repaired her very thoroughly.

Q.—Do you know whether they repaired her bottom or not?

A.—They went down—well, down to the water-line—and I think they overhauled her and went a little lower than that?

Q.—There was one of the surveyors here, who stated that timber below the water-line never rotted.

A.—He was a little mistaken there. Timber in the bottom does not rot—in the immediate bottom, where it remains in the water all the time; but when you get a little above that, it rots sometimes in the bilge, as it is called, above where the water washes about.

Q.—On board of steamships where the machinery is located—the machinery and boilers—does the wood not often rot alongside the boilers, very often?

A.—It is apt to shrink very frequently.

Q.—To rot?

A.—I don't think—I don't recollect seeing any instance of that lately.

Q.—Did you ever?

A.—I don't recollect now of ever seeing any, particularly in that part. I know we had the Uncle Sam here some years ago. She was not rotten there, but in the stern; and sometimes they rot in the stern and in the bow, where there is no ventilation to let the foul air out. The Uncle Sam was very rotten, but that was for want of ventilation. I recommend ventilation always to ships and steamers.

Q.—So, you can't refer to any ships in your experience, except one of those ships hauled off going to sea, but that you would have insured?

A.—While they were running.

Q.—You mean to say, then, that you would insure all vessels that come along?

A.—We generally had a pretty correct idea of them.

Q.—You say you don't know of any?

A.—I don't recollect of any now. As soon as any ship is found unseaworthy for insurance, they repair her.

Q.—Did you say you saw the Pacific—you surveyed the Pacific the last time she was here?

A.—I saw the Pacific last summer; I was on board of her; and likewise saw her two years and a half ago, nearly, when she had those large repairs. I was there frequently and saw it, and I was satisfied with the repairs. I was satisfied last summer.

Q.—Would you be willing to swear that the Pacific was a sound ship?

A.—Yes, sir; I think I should.

Q.—She was a sound ship?

A.—We don't call a ship rotten that has a few rotten timbers—one here and one there. If we find four or five together, that is objectionable. One here and one there is not considered serious for insurance.

Q.—And you think the loss of the Pacific was altogether the fault of the officers?

A.—I have read the report of Captain Waterman, and I think the conclusion he came to was correct.

Mr. Barber—Was that investigation private or public?

A.—They said nobody was allowed in. I don't know. The newspaper says it was private. I read the whole of it in the *Vallejo Chronicle*.

Q.—Are you willing to swear to that report, Captain?

A.—No; I could not swear to the report; but my idea was that Captain Waterman had come to the proper conclusion in regard to the loss of the Pacific and the cause of it. That was my conclusion.

Mr. Ostrom—I remember in that report that the timbers are represented forward, in the Pacific, as being very far apart—the ribs or the knees?

A.—That the timbers are not so close in a steamboat as in a ship.

Q.—Are all steamers built in that way?

A.—I think there may be in some steamboats, but not in all that way?

Mr. Biggs—Did I understand you examined the Pacific six months ago?

A.—I was on board of her; yes, sir.

Q.—Did you examine her?

A.—I examined her two years and a half ago.

Mr. Barber—Did you give her a thorough examination?

A.—No, sir; for I had a knowledge of her for years. I classed her 2.

Mr. Biggs—In classing vessels I understood you to say that that rate was just insurable?

A.—That is the lowest grade they are insured at, at regular rates.

Q.—But you were still willing to take a risk on the Pacific?

A.—Yes, sir.

Mr. Roberts—What other vessels have you examined within the last year?

A.—The Constitution, the Montana, and the California, and the Senator, Orizaba, and the Ancon and Mohongo—all of them.

Q.—The Senator now plies down south?

A.—Between this and southern ports.

Mr. Biggs—Do you consider her a seaworthy vessel?

A.—Yes, sir.

Q.—How does she rate?

A.—A2.

Q.—How is it with the Orizaba?

A.—She is better—A1½.

Q.—How is it with the Los Angeles?

A.—She rates 1½, I think, if not better—1½ that is. I examined her, also her repairs when she was altered and rebuilt last year, and found the work well done.

Mr. Bagge—Is not there a steamer called the Stephens?

A.—Yes, sir; the John L. Stephens.

Q.—What is the rate of that vessel?

A.—She rates A2.

Mr. Biggs—In referring to steamers considerable stress is made upon it because she was rated at A2. Would you not, even rating a vessel at A2½, insure her, but at a higher rate of insurance?

A.—I don't think we would take it at A2½.

Mr. Perkins—As a nautical man, do you not believe the same might have occurred from the disaster had this Pacific been a new steamer, in this collision?

A.—That is rather doubtful. I wouldn't say.

Q.—Do you not know that a short time since an iron ship in the English channel was run into and sunk?

A.—Yes, sir.

Q.—Is it not possible that a ship may be perfectly sound, a new ship, and in a collision of that kind the same sad results might occur?

A.—Might, but more likely to occur to an old ship.

Q.—Of course; but in a collision of that kind, if an iron ship did not stand (reasoning from analogy), a wooden ship would not?

A.—That might be so.

Mr. Bagge—You don't say positively, Captain, that it is so?

A.—I should rather take my chances in a new ship than an old one.

Mr. Perkins—You stated you were familiar with our ships plying on the southern coast; what is your opinion of them?

A.—Very fair.

Q.—And they compare favorably with those plying in the same latitude on the Atlantic coast?

A.—I don't know.

Q.—Your opinion is they are good, staunch, seaworthy ships?

A.—Yes, sir.

[Here the committee took a recess until one o'clock and thirty minutes P. M.]

AFTERNOON SESSION.

R. H. WATERMAN, called and sworn.

Mr. Pullen—How old are you?

Answer—Born fourth of March, eighteen hundred and eight.

Q.—What is your business?

A.—My business? Well, I am United States Inspector of Hulls.

Q.—How long have you been in that position?

A.—Seven or eight years.

Q.—Seven or eight years?

A.—Yes. I don't know but more. I forget what year I commenced.

Q.—What is the general condition of the shipping of this port?

A.—The general condition of what?

Q.—The hulls of the shipping of this port?

A.—I can't answer that. What do you mean—steamships?

Q.—Yes; the hulls?

A.—Steam vessels?

Mr. Ostrom—The passenger-carrying portion of the ships that sail out of our harbor?

A.—You mean the passenger-carrying ships?

Q.—Yes.

A.—The books of that office show the condition of all of them. The certificates of the shipping that is running—passenger shipping—are open to everybody to see.

Mr. Pullen—That is not the question.

A.—It is not the question, but that is the answer, anyhow.

The Chairman—I would suggest that you ask him about some particular vessel.

Mr. Pullen—What was the condition of the Pacific when she went to sea last?

A.—What was the condition of her?

Q.—Yes, the hull?

A.—She was in a good seaworthy condition when she left this port.

Q.—You are a good judge of a ship?

A.—I think so; yes.

A.—Are you a ship carpenter?

A.—No. I have been a ship master before—

Q.—How long since you were in command of a ship, Captain?

A.—Eighteen hundred and fifty-one was the last voyage. I think it was eighteen hundred and fifty-one.

Mr. Barber—You are correct; it was eighteen hundred and fifty-one.

A.—Yes; you were there, wasn't you?

Mr. Pullen—It has been reported around, I presume you are aware, that a good many ships sailing out of this port are rotten?

A.—What?

Q.—You have read the different reports of the papers in regard to our steam vessels sailing out of this port, have you not?

A.—Referring to the collision? Oh, yes!

Q.—Public opinion seems to be rather against them, doesn't it?

A.—I don't know as that is against us, but newspaper reports are very much against it.

Q.—Did you have an investigation with regard to the Pacific?

A.—An investigation?

Q.—Yes, sir.

A.—Oh! yes, sir; since the arrival of the crew of the Orpheus and the two survivors of the Pacific. Oh! yes.

Q.—Was it public or private?

A.—Well, it was open to everybody except reporters; I had an objection to that.

Q.—Why were they excluded?

A.—I thought that I could carry through the investigation more readily by myself. I have a way of doing things that perhaps is not the same as other people—perhaps it is.

Mr. Bagge—You like your own way?

A.—Very much, indeed. I think I was right about it. I got out everything I was seeking, and was fully satisfied with the manner of doing it.

Mr. Roberts—Let us know what the Captain is willing to testify with regard to the vessel when she went to sea. We have already refused to take any testimony in regard to that ship except such as men knew precisely to their own knowledge. Now, if Captain Waterman will testify of his own knowledge as to what was the cause of the loss of the ship, I am ready to go on with his testimony, so far as I am concerned.

The Witness—I refer you to my report in the papers. It gives the whole thing. My report to the Supervising Inspector, which the law makes it my duty to do.

Mr. Pullen—You say that you believe the ship was sound?

A.—Does it say so there? [Pointing to the newspaper containing his report.] I refer you to that as my report on that vessel.

Mr. Pullen—You offer this in evidence?

A.—Well—you may take it so, yes—I don't see as I have any objection to answer these questions about soundness.

Mr. Ostrom—If the captain offers that as a portion of the statement he wishes to make he should first say whether he is the author of that statement.

A.—Yes, sir; I am.

Q.—And you refer this committee to that report?

A.—Yes, sir; that is my official report to my superior, which goes to the Government of the United States. I don't know as we have a right to give that to the public. I am a little in doubt about that.

Mr. Pullen—Is it usual among the United States Boards of Inspectors, in their examinations, to hold their examinations secretly?

A.—I don't know. I have not heard of any action in that connection, except our own port.

Q.—Do you know of any steamships sailing out of this port that are unseaworthy, either in regard to hulls or machinery?

A.—Sailing out of the port? no; none sailing out of the port—no.

Mr. Barber—Do you know any steamer out of the port, that is, that plies to some port and back again?

A.—You mean any vessels that are running?

Q.—Yes.

A.—No; I do not.

Mr. Roberts—You are an officer of the United States at the present time?

A.—Yes, sir; a commissioned officer of the United States.

Q.—And it is your duty to make examination of all vessels plying to and from the port?

A.—Yes, sir.

Q.—You make that investigation, and grant them a certificate?

A.—Yes; a yearly certificate.

Q.—They run for twelve months on that certificate?

A.—Yes, sir.

Q.—This steamer Pacific that was lost was sailed under the seal of a certificate issued by you?

A.—Yes, sir.

Q.—What was the date of that certificate?

A.—I don't recollect.

Q.—How did she rate—when you examined that ship how did she rate?

A.—We don't rate them.

Q.—Don't rate them, at all? All certificates are the same grade?

A.—Yes, sir.

Mr. Pullen—In this report [referring to a newspaper], did you give that report to the press or submit it to Supervising Inspector Beamish?

A.—I gave that to Supervising Inspector Beamish.

Q.—What kind of a ship is the Dakota?

A.—Dakota? I conceive her to be as good a ship, rather better than the general average of ships, inasmuch as she has got all new top sides; she was very rotten, and she was torn down, and all the bow wood taken out, or nearly all; there may be a little left in her.

Q.—What kind of a ship is the William Taber?

A.—I would rather you would not ask me about the William Taber. Excuse me, please. She has got no certificate of mine.

Q.—Has she a certificate?

A.—I don't know that she has. She is fitting out now.

Q.—Has application been made to you for a certificate for the William Taber?

A.—There was an application made to me; yes, sir—to me and Mr. Hillman, Local Inspectors—to inspect that vessel.

Q.—You proceeded to inspect her?

A.—We went on board; yes, sir; and made an examination of the ship.

Q.—Captain, did you refuse to grant her a certificate?

A.—No; we did not directly. She is repairing; wait till she comes out, and then we can see.

Mr. Roberts—We would like to know.

A.—I can only tell you I refer you to the books. If the Supervising Inspector has granted her a certificate, you will find it there. I don't know whether he has or not.

Q.—And you refused to sign your name to the certificate?

A.—No; the thing has not been put to me directly.

Mr. Bagge—Has it been put to you indirectly?

A.—I think I will have to begin to refuse answering questions.

Mr. Pullen—You and Mr. Hillman are the Local Inspectors?

A.—Yes, sir; I want to tell you, as we go along, that it does not lie with us entirely. From us they have the right of appeal to the Supervising Inspector. It went to the Supervising Inspector from us, and I have not heard of it since, whether she has a certificate now or not.

Q.—If she had, would you not know it?

A.—You will see in that office if she has.

Q.—You mean to say a ship would have a certificate and you have no knowledge of it?

A.—Yes, sir; for a short time. When I come to overhaul the books and find there has a certificate been issued, I may find it out.

Mr. Roberts—After you examine a ship and report, does the Supervising Inspector ever issue a certificate? Have they ever done it?

A.—Oh, yes, sir; why certainly. There are times when we require more than they think it is necessary to have put on a ship, and they appeal to the Supervising Inspector. Then it is out of our hands, and we have nothing more to do with it.

Q.—Will you name one instance when the Supervising Inspector has given a certificate after you had reported against the seaworthiness of a ship?

A.—No; but I know the thing has been done; but I don't remem-

ber what ship. In the course of seven or eight years a good many things take place. No, it has been but seldom; I don't believe there has been over two.

Mr. Barber—Do you remember what two ships they were, Captain Waterman?

A.—No; I do not.

Mr. Roberts—In regard to the steamer Senator, do you know what condition she is in?

A.—Oh, yes.

Q.—What is her condition in regard to seaworthiness?

A.—Very good. She is very old, but—

Q. [Interrupting]—None the worse for that?

A.—Not necessarily the worse for that.

Q.—How is it with the John L. Stephens?

A.—The John L. Stephens is not so good a ship as the Senator. I think the John L. Stephens is not in motion now.

Q.—Laid up?

A.—Yes, sir.

Q.—Has she a certificate at the present time?

A.—She has; but I don't think it has expired yet. I can't recollect about it.

Mr. Ostrom—I ask you if, in this investigation you made into the case of Pacific, if you did that at the request of any party or parties, or simply in justice, as you considered, to yourself?

A.—The law of the United States required us to do it—the steamboat law. Besides that, the Supervising Inspector gave us written notice to attend to that particularly.

Q.—It was through the request of the Supervising Inspector that you instituted that?

A.—Through the laws of the United States. If he had not written us a letter we would have done it. That was our duty.

Mr. Pullen—Did your associate, Mr. Hillman, Local Inspector, join with you in excluding the reporters during the examination?

A.—He did not. It was my action solely. He did not care whether it was one way or the other.

The Chairman—Captain Waterman, I shall claim that you are not compelled to answer a question of that kind at all. That has nothing to do with steamboats.

Q.—Do you know, at the present time, of any steamer here that is unseaworthy, and not fitted to hold a government license?

Mr. Ostrom—That is a question I would submit that the witness would not like to pass upon.

The Chairman—Do you know of any vessel that now holds the government license, that is unseaworthy?

A.—Let me see—no, I don't think I do—no.

Mr. Pullen—Are you supposed to pass upon the machinery as well as the hull and boilers?

A.—Well, we sign a certificate with the Boiler Inspector, and he does the same with the hulls. I don't pretend to know much about engines or boilers, but the law requires us to sign them—to have two signatures.

Q.—You examine the hulls and he the machinery?

A.—Yes, sir.

Q.—The Moses Taylor is laid up now, is she not?

A.—The Moses Taylor is supposed to be in Acapulco, as coal ship—receiving ship. She had no license.

Mr. Perkins—Do you know whom the William Taber belongs to?

A.—I don't know whom she belongs to.

Q.—Who represents her?

A.—Captain John T. Wright, I think, represents the vessel.

Q.—The laws of the United States provide how ships shall be equipped, and your duty is to see that the law is strictly complied with, is it not?

A.—Yes, sir.

Q.—Have you ever issued a certificate to any ship, any steamer, sailing out of this port, unless you have been satisfied they had fully complied with the strict letter of the law, as provided in the statutes of the United States?

A.—I don't think I have.

Mr. Barber—You don't know, positively, whether you have or not—you only think so?

A.—I may venture to say that I know.

Mr. Ostrom—I move, as there may be some doubt in the mind of Mr. Perkins, that he have every facility for asking questions here.

The Chairman—I don't think any of the committee have made any objection.

J. H. FREEMAN, called and sworn.

Mr. Pullen—You are a surveyor?

Answer—Yes, sir.

Question—What company are you surveyor for?

A.—I am surveyor for the American Lloyds, and for the English Lloyds' agency.

Q.—How long have you been in that position?

A.—A little over one year.

Q.—In this City and County of San Francisco?

A.—Yes, sir.

Q.—What is the general condition of the steamships sailing to and from the Port of San Francisco?

A.—Well, that I know very little about. Sailing vessels are what I survey mostly.

Q.—You never survey steamships?

A.—No, sir; I have—

Q. [Interrupting]—Do you know whether your company take risks on steamships?

A.—No, sir; on cargo altogether.

Q.—Had you any risk on the Pacific?

A.—No, sir.

Q.—Had you any on her freight?

A.—No, sir.

Q.—You know nothing about the Pacific?

A.—No, sir; only I have seen—been on board her many times.

Q.—You don't know anything about her condition?

A.—No, sir.

Q.—Do you know anything about any steamships sailing out of this port?

A.—Only those that I have commanded.

Q.—What ships have you commanded?

A.—The Great Republic, the China, the Japan.

Q.—How long have you been sailing out of the port?

A.—About nine years.

Q.—As a seafaring man, sailing out of San Francisco, were you ever at sea on any steamship, or at any time, in a gale of wind, when you thought you were not safe?

A.—No, sir.

Q.—Felt perfectly safe?

A.—Perfectly.

Q.—What employ?

A.—The Pacific Mail Steamship Company.

Q.—Did you ever have a Chinese crew with you?

A.—Yes, sir; always.

Q.—What kind of sailors do they make?

A.—I consider them very good for fine weather, sir, and in side-wheel steamers where they do not carry sails.

Q.—What kind of men are they in case of emergency?

A.—I have not had much opportunity to test them ever in gales of wind. I have always found them on hand.

Q.—You use them very little?

A.—Very little.

Q.—Did you ever know anything about the Japan?

A.—Yes, sir; I have had command of her for four years.

Q.—You have read the investigation that was held on her in Hong-kong, have you not?

A.—Yes, sir.

Q.—Didn't you think if there had been a white crew on board that ship at the time that such great loss of life wouldn't have happened?

A.—That I cannot say, sir. I was not there at the time.

Q.—From your experience as a captain of other steamships?

A.—Well, it might have been. As I said before, I was not there, therefore I cannot answer the question.

Q.—You are not in the employ of the Pacific Mail Steamship Company now?

A.—No, sir.

Q.—Captain, do you know of any ships sailing out of this port—being a surveyor—steamships that you would not be willing to have your company take a risk on?

A.—As I said before, we don't take risks, only on cargo.

Q.—Well, in case they did?

A.—Yes, sir. No, I don't think I do, sir.

Q.—You don't know one?

A.—No, sir.

Mr. Barber—You have not held a survey on a steamship since you have been in the business?

A.—No, sir. I have held a survey on the Vancouver; yes, sir. We surveyed her once or twice. She is an English steamer, not American.

Q.—What kind of ship is she?

A.—An iron ship, sir.

Q.—Is she considered a first-class ship?

A.—Yes, sir.

Q.—Whom does she belong to?

A.—The Transpacific Company, I believe, represented by Macondray & Co., here.

Q.—Do you know anything of Messrs. Goodall, Nelson & Perkins' ships?

A.—No, sir; only casual observation, being on board of them, sir.

Q.—In your judgment, Captain, what kind of ships do you think they are?

A.—Well, for the class of ships, very good, sir.

Q.—Very good?

A.—Yes, sir.

Q.—You have not been on board any ships belonging to the Oregon Steamship Company?

A.—No, sir; not recently.

Q.—Steamships are entirely out of your line of surveying?

A.—Yes, sir.

Q.—Your company takes no risks upon them?

A.—No, sir; not on hulls.

Q.—What is the reason?

A.—Because their business is principally on wheat cargoes between here and England. It is an agency merely.

Q.—Does the office in Europe take risks on vessels' hulls?

A.—Not that I am aware of.

THOMAS CAVNER, called and sworn.

Mr. Roberts—What is your business?

Answer—A ship caulker.

Q.—Where do you reside?

A.—I reside in the Eleventh Ward.

Q.—San Francisco?

A.—Yes, sir.

Q.—Are you a boss caulker, or journeyman?

A.—Journeyman.

Mr. Barber—That is to say, you are one of the men that helps to caulk ships; you don't take contracts?

A.—Yes, sir; work by the day.

Mr. Roberts—What ships have you worked on at caulking the last twelve months—steamers?

A.—I worked on the Idaho; of course, the other steamers I have not worked on. I have seen men that worked on them.

Q.—We want to know what you did yourself on the steamers. Have you worked on any at caulking the last twelve months?

A.—I have not been in the habit of working for the Perkins' line; sometimes the vessel would be on the dock. I would work on them when they would be on the dock within the last two or three or four or five years. They don't go on the dock very often.

Q.—Do you know anything about the steamer Pacific, that is lost, of your own knowledge?

A.—Not of my own knowledge. I have not worked on her. I have heard men talk about her.

Q.—We want to know of your own personal knowledge whether you have worked on them, and when?

A.—I have not worked on the William Taber, but I have been on board of her, and could see daylight through her side.

Mr. Barber—Did you ever work on any other steamer?

A.—Yes, sir; on the old California, before she was rigged into a sailing vessel. She was a steamer at that time.

Q.—In caulking that ship, how did you find her planking?

A.—I found I could take some of her planking out by my hand, that was passed over by Mr. Waterman, and I was ordered to pitch it over.

Q.—When was that?

A.—Four or five years ago. She was over on North's ways overhauling. She was running on the passenger line after that.

Mr. Pullen—Was she in commission at that time?

A.—Yes, sir; she was going in—

Mr. Ostrom—You say this ship afterwards carried passengers from this port, after you had caulked her?

A.—Yes, sir; she run an opposition steamer, I believe, by Wright.

Mr. Barber—Where did she run to?

A.—I don't know exactly whether north or south. When the job was done there was some writing drawn up that she was a strong, substantial vessel, and all the men that worked on her was requested to sign it.

Q.—You did find rotten plank in her?

A.—I could take it out with my hand.

Q.—You told Mr. Waterman, did you?

A.—I didn't tell anybody.

Q.—Mr. Gates told you to pitch it over?

A.—He said "Let it go." It was right in the wake of the wheel. There was a good deal of new plank put in that time.

Q.—Have you worked on any other steamships?

A.—On the Idaho, I think.

The Chairman—Whom did the California belong to at that time.

A.—I think to Wright—Billy Wright—the same ones who own the Taber now. I used to see Wright around her, anyway—Donahue, I believe it was.

Mr. Roberts—You spoke about some parties—a certificate being presented to parties to sign, that she was seaworthy. Was it presented to the men who worked upon her; do you know any of those parties?

A.—That what?

Q.—Who were requested to sign the certificate?

A.—O, yes; I knew of them.

Q.—Do you know them now?

A.—I do.

Q.—Are they here?

A.—In San Francisco? Yes, sir.

Q.—Name them.

A.—The gentleman that worked with me is John Morgan; I think it was John Morgan.

The Chairman—You say you worked on the Idaho?

A.—Yes, sir.

Q.—What condition did you find her in?

A.—Perfectly fair; seaworthy.

Mr. Roberts—What do you mean?

A.—Seaworthy; fit to run on the coast, but not any further.

Q.—What steamers now sailing out of this port, if any, have you worked upon?

A.—I worked on the Mail Company's boats.

Q.—The Pacific Mail Steamship Company?

A.—The Pacific Mail Steamship Company's boats.

Q.—What have you got to say about their seaworthiness?

A.—They done their work in a perfect manner, and in a good condition. I worked on the Dakota.

Q.—Did you caulk the Dakota?

A.—Yes, sir.

Q.—In what condition did you find her?

A.—Good; and well built.

Q.—Was Captain Waterman there during the time she was on the dock?

A.—I don't know as I ever seen him around there. He might have been. I think I saw this gentleman over there. [Pointing to a gentleman without the rail, to the reporter unknown.]

Mr. Pullen—Do you know of any other steamships you worked on besides the California that was rotten?

A.—Yes, sir; I worked on the Ajax, on the dock, one time.

Mr. Roberts—How long since?

A.—Well, I think, some three or four years ago. I recollect that we reeved the oakum all out; and they were in a hurry; and the foreman said: "Pay her over; put the copper on, and let her go." The oakum was reeved out of the ship. I don't suppose the owners or the Inspector knew anything about it.

Mr. Pullen—Were not the Inspectors there?

A.—They were around the ship; but the Inspectors didn't know anything about a ship, any more than that spittoon.

Q.—You know a good deal about ships; you have seen a good deal of Captain Waterman as Inspector of Hulls of this city?

A.—I have been on surveys with the Captain; surveys where we took a horse-iron and beetle, and tried the side of the ship, and found her in bad condition; and Captain Waterman would go into the cabin with the captain, and when he came out the ship was good.

Q.—Repeat that.

A.—I have been on surveys with Captain Waterman, and tried the ships on the outside—I was present. Captain Waterman would go in the cabin. What was done in the cabin I don't know; but when he would come out the ship was good.

Mr. Barber—In your judgment, as a caulker, you think that ship ought to be caulked?

A.—Yes, sir.

Mr. Roberts—You say that when you were engaged with the Inspector—can you name any party that was there? You were present, but somebody else was trying it—name anybody else?

A.—I suppose I could. I had as much as I could do as long as I was present looking at him hitting the ship with the horse-iron.

Q.—You were there as an expert?

A.—No; as a spectator.

Mr. Bagge—In examining vessels with Captain Waterman how did you examine?

A.—When we try for caulking we take what we call a horse-iron and put it on the hole, and take a beetle and hit the head of the horse-iron and see if it goes in slack. If it goes in slack the ship wants oakum in her.

Q.—The beetle is a large mallet?

A.—Yes, sir; with a long handle to it.

Q.—In caulking a ship did you ever come across a seam where you could drive the caulking-iron clean through?

A.—Yes, sir; many a time.

Q.—Plumb through the seam?

A.—Yes, sir. I have been working on ships many a time where I found a piece of plank rotten, and took it out and found a rotten timber. They would shut it up for fear it would be seen, but they would put a bolt in and put a nut on on the inside to keep it in place, and the frame would be all gone.

The Chairman—In steamboats?

A.—Yes, sir. Steam and sailing vessels.

Q.—Name any sailing vessel.

A.—The old California. I have seen it done on her.

Mr. Roberts—Have you worked on any of those this last year that you could drive this instrument in that you have spoken of?

A.—I have not worked on Goodall, Nelson & Co.'s the last year. I have worked on the Mail Company's vessels the last year, or the last eighteen months. I worked on one of the North Pacific Transportation Company's. I went once to work on one and found nothing in the seams but mud (that was at the foot of Folsom street), and I reported to the Superintendent, and he said he would put it right, but it was never done since.

Q.—What ship was that?

A.—The Oriflamme, I think.

Q.—You pretend to understand the hull of a ship pretty well, do you not?

A.—I do, sir, as far as the caulking line is concerned; and I know when a good carpenter job is done, and when timber is well fastened. I understand pretty well how a job ought to be done. I have been sixteen or seventeen years working at it, up to last winter—all my lifetime.

D. F. HUTCHINS, called and sworn.

Mr. Pullen—What is your business?

Answer—Marine surveyor.

Q.—What company?

A.—I am surveyor for the California Insurance Company, and also the French Lloyds.

Q.—Have your companies taken risks on hulls of steamers sailing to and from the Port of San Francisco?

A.—Yes, sir; we have sometimes.

Q.—Any at present?

A.—Yes, sir.

Q.—On what ship?

A.—The Los Angeles, the steamer Empire, the steamer Humboldt, the Coquille. I don't think of any other.

Q.—How long have you been a marine surveyor?

A.—About five years and a half.

Q.—During that time have your companies refused to take any risks on steamers sailing to and from the Port of San Francisco?

A.—Oh, yes, sir. On steamers as well as other vessels.

Q.—For what reasons?

A.—I examine the condition of the hull, the character of her cargo, equipments, etc.; all these things enter into consideration in insurance. We might refuse to take a risk on a very good ship on account of the port she was going to.

Q.—Do you know of any steamer sailing out of the Port of San Francisco, of your own knowledge, or to the Port of San Francisco,

that you would not take a risk on, or allow your company to take a risk on?

A.—Well, I think there is scarcely anything steaming to and from the port that some rate of premium wouldn't make it insurable. On nearly all we could put on some rate that would cover the insurance. The vessels generally are pretty tolerably adapted to the work they are intended for.

Q.—As a general thing your company would take a risk on almost any ship?

A.—Most of them; but some are outlawed. We might take a gambling risk on them.

Q.—It is something like gambling, then?

A.—Yes, sir; something of that kind. The ordinary business of insurance is a matter of calculation and a matter of statistics, as much as the sale of woollens.

Q.—Did you have any risks on the Pacific?

A.—No, sir; we had not.

Q.—Did you refuse to insure her?

A.—We declined the Pacific, because we thought the premium was insufficient.

Q.—You thought you couldn't risk insuring her?

A.—We thought the premium was not sufficient to pay the risk.

Q.—The risk was too great?

A.—The premium too small. We wanted one per cent. more than the owners were willing to pay.

Mr. Roberts—Did you examine the Pacific?

A.—I didn't make a special survey on board. I was on board very often, and I know something about her superficially. We do not rely very much on the Inspector of Hulls.

Q.—That is, upon Captain Waterman?

A.—Yes, sir; we look ourselves, of course. Some of these steamers leaving here it is my duty to inspect very thoroughly—more so, perhaps, than the Inspector of Hulls.

Q.—Was it upon Captain Waterman's judgment, or upon your own, that you based your calculations in regard to the premium being too small?

A.—Upon my own judgment.

Q.—Have you examined any other of Messrs. Goodall, Nelson & Co.'s ships now sailing out of this port?

A.—Yes, sir; I examined very thoroughly the Los Angeles when she was rebuilding, and have since examined her, not long ago.

Q.—How does she stand?

A.—She is a good vessel. I call her 1½. I think she is a strong, staunch boat.

Q.—Have you examined the Senator?

A.—I never made a critical examination of the Senator. I know she is a very comfortable boat. I have made a trip on her. I was on board her the other day at sea. It blew very fresh. She behaved admirably.

Q.—Have you examined any vessels belonging to any other of the steamship companies?

A.—Yes, sir; it has been my duty to examine several of the Pacific Mail Steamship Co.'s steamers—the City of Peking, the City of Tokio, and some of their small steamers—the Colima, the City of Panama, and some of the others that I have examined carefully.

Q.—Do you consider all those you have examined and named seaworthy vessels?

A.—Yes, sir; those that are not under repair—no question about it. There is one ship belonging to the company now at sea. The classification I represented had been withdrawn until certain repairs had been made on the ship—the City of Tokio. She is a good enough vessel, undoubtedly; but she had a high class given her, and believing that some repairs ought to be made to her, I withdrew her classification until they were made. She has now gone to sea. That was a matter under my supervision.

Q.—What ship was that?

A.—The City of Tokio.

Q.—When you go to examine a ship, how do you generally do it? Suppose you are going on board a ship, now, to make an examination for giving a policy on that ship?

A.—I generally go on board of ships, go down in the hold, get lights, and look at the ends of beams, the keelsons, the steps of the masts, etc., and examine all about there, and outside, as far as can be seen, and as far as the bottom is concerned, by inquiry; and we examine the pump-gear, and so, generally, we get a pretty good idea. We sometimes bore. That is Lloyd's way.

Q.—Do you examine under the ballast?

A.—Yes, sir; have the ballast moved, if for cargo, but if for classing—yes, have portions of it moved.

Q.—What rate would you class the Pacific at?

A.—I should call her 2. That is what I did call her. I am Secretary of the Board of Surveyors that rated that vessel. She was rated A2, and considering her age, that is fair.

Q.—So you don't know of any ship sailing out of the Port of San Francisco, within the last year, or to San Francisco, that your company would refuse to take any risk on?

A.—I do not. As I say, our company refuses to take lots of risks—

Q.—[Interrupting]—Are there any steamships your company has refused to take risks on?

A.—There has been a number of them.

Q.—Can you name any?

A.—For the reasons given before, we declined to take the risk on the Pacific.

Q.—Any other?

A.—Well, there are some others we shall decline to renew policies on when they expire—not from any fault of the vessels themselves, but it is merely a matter of navigation—not from any fault of the ships at all.

Q.—There are some?

A.—But I would rather not mention them. It don't go to the qualities of the ship, at all—the vessel I have in mind is not three years old, and is a very strong vessel.

Mr. Roberts—I think it is of interest to the public that this matter should come out. If there are secrets, the committee and public ought to know them.

The Witness—I don't mean anything personal in the ship. I mean the natural dangers of navigation. This vessel I speak of is well navigated, but she runs to a port that we think extra hazardous, and therefore we came to the decision the other day that we wouldn't

take a risk upon her. She is a good ship, and well manned, and well commanded; only she was going to a dangerous port.

Q.—When you go below to examine a ship, do you have any experts with you?

A.—Yes, sir; we generally, in making a survey—an ordinary marine survey—have a master shipwright and surveyor.

Q.—Do you have lights, or examine in the dark?

A.—Lights? Yes, sir. They are generally very ready to furnish all those things.

Q.—Did you ever own a ship sailing out of this port?

A.—Yes, sir; not owned her, but half-owned her.

Q.—Did you ever own steamships?

A.—No, sir.

Q.—What kind of sailors do the Chinamen make?

A.—Chinamen make very poor sailors. Even on the China and India coasts, in selecting men, Captains ship Indians, Lascars, or Malays in preference to Chinamen. You cannot find an American vessel on the coast of China that has a Chinese crew.

Q.—Are you acquainted with Captain Waterman.

A.—I know him slightly.

Q.—Did you ever read the evidence that was taken in Yokohama or Hongkong in regard to the burning of the Japan and America?

A.—I think I must have read it at the time, but I have now no recollection. I may volunteer to say that the hazard in those vessels is very materially increased by the employment of Chinese crews—I have said it many times.

Q.—From your experience as a seafaring man, Captain—from your acquaintance with vessels and with sailors, don't you think that there would have been a large number of lives saved if their crews had been white men?

A.—Most decidedly.

Q.—Don't you think the ships themselves might have been saved?

A.—I think the America might have been saved. I knew Captain Doane, and I told him what I thought, but he didn't agree with me. In the panic which ensued they were like sheep; they can't do anything with them in time of danger—they have no individuality; and a white man, of any country, has natural personality that leads him to act for himself.

Q.—You have a family?

A.—Yes, sir; children.

Q.—Would you feel like sending your family to China and back where Chinamen were employed on board those vessels as sailors?

A.—Yes, sir; but I would do it because it is a sort of custom; but I don't think they would be as safe.

Mr. Bagge—Suppose there were two vessels going out at the same time; one with a white crew, and the other with a Chinese crew; which would you take?

A.—The white crew for safety, every time. These ships may be navigated by Chinese simply because they are steamers, and not sailing vessels.

Mr. Roberts—Take the Pacific Mail Steamship Company, haven't they driven a great many of our sailors off the coast by their action in employing Chinamen?

A.—That is not for me to say. I prefer white men every time.

Mr. Pullen—Are you not aware that it is hard for a California bound ship to get a good crew of sailors to come here?

A.—There has been more difficulty latterly, on account of some peculiar trouble with officers. That is the opinion I formed some time ago. There is a little difficulty about it; more than there used to be. I don't think the class of sailors has improved any in my time.

Q.—Generally down, behind?

A.—Yes, sir; that is the general opinion.

Q.—Don't you think that has had a good deal to do with it—that that is one of the causes?

A.—You mean the use of steam?

Q.—Employing those men as firemen and coal-passers?

A.—Of course, the employment of those men shuts out whites.

Q.—Do you know the condition of the Great Republic?

A.—No, sir; not critically. I have seen her very often. We have no risks except cargo risks on the vessel. I understand she is in good order.

Mr. Roberts—As a general thing, when application is made to your company for a risk, do you rely upon Captain Waterman's certificate, or upon —, after being inspected by Captain Waterman?

A.—We generally place some reliance upon the certificate, but examine ourselves, if possible. But sometimes the certificate has been issued after a rigid examination has been made, and it ought to be reliable.

Q.—One witness on the stand has stated that Captain Waterman made superficial examinations, do you know anything about it?

A.—I have been on examinations with Captain Waterman, and found him a—he is a peculiar man.

Mr. Ostrom—The fact is, that each of these insurance companies provides its own surveyor?

A.—Yes, sir.

Q.—They don't depend on the Government?

A.—No, no, sir; they rely on their own men. But generally among surveyors the difference of opinion is scarcely appreciable. The rule to guide them is so well understood, when they give it ordinary attention, they cannot fail to come to an agreement. Sometimes in a doubtful case they will differ.

Mr. Pullen—What effect does it have with the insurance companies, if any, upon the ships employing Chinamen, and those not employing Chinamen? Does it make any difference in the rates?

A.—I don't think the difference has amounted to much; but I have heard it talked of many times among insurance people, and there is a great preference for ships manned by white men—in this case it is almost the only place where they do man ships with Chinese—between here and Australia.

Mr. Perkins—You are acquainted, I believe, with most of our ships navigating on the coast to and from this port?

A.—Yes, sir.

Q.—In your opinion are they seaworthy steamers?

A.—I think they are pretty well kept up.

Q.—As to their being well officered, manned, and equipped?

A.—I think they are particularly well commanded and officered, and well equipped.

Q.—You represent the Bureau Veritas, and also an insurance company. You would have no hesitation in writing a risk for a reasonable amount upon those ships did we make application to you for it?

A.—No, sir; I should say not.

Q.—Are you acquainted with the ships belonging to the Atlantic coast?

A.—Not very much.

Q.—I think you stated you had recently made a voyage on the Senator?

A.—Yes, sir.

Q.—Since she has been rebuilt?

A.—Yes, sir; a week ago.

Q.—State to the committee what is your unbiased opinion as to the Senator, and as to her qualities as a sea-boat sailing on this coast, and also as to her equipment.

A.—I got aboard on the voyage bound up from the south, and a southeaster began to blow before we got up to Monterey. The wind blew very hard, and she went along very easily, without any apparent strain.

Q.—As you are aware, the Senator is old; and the same objection could be made to her as to the Pacific—that she is not a new ship. You would as soon trust your life and that of your family to her as to many of the new ships?

A.—Yes, sir; I think she is a very comfortable and safe ship for the trade she is in.

THOMAS D. MATHEWSON, called and sworn.

Mr. Barber—Will you state to this committee what you know about the unseaworthiness of steamships sailing out of this port within the last few years?

Answer—I don't know anything about it.

Q.—You do not?

A.—No, sir.

Q.—What gentleman was that you told, in the Sutter street cars, a few days after we heard of the loss of the Pacific, that you knew the Pacific to be so rotten—her timbers so rotten that they would not hold the fastenings of her planks—that the planks had to be fastened on with screw-bolts?

A.—That was hearsay.

Q.—You remember of saying that?

A.—I remember of saying it.

Q.—Who did you hear say that?

A.—I heard Captain Soule.

Q.—Is Captain Soule in town?

A.—No, sir.

Q.—The Harbor Commissioner?

A.—Yes, sir; I don't know anything about it myself.

Q.—It is from his knowledge that you spoke of it?

A.—Yes, sir.

Q.—Did he tell you how he arrived at that conclusion?

A.—I could state the story about as he told me. If he told it himself it would be more direct—more particular, perhaps.

Q.—You can tell how he told you?

A.—Captain Soule pretends to be a captain of a steamer (?), and I never had much to do with ships.

Q.—Have you any objections to stating to this committee the substance of Captain Soule's conversation to you when he was talking about this matter?

A.—It would be better if you got it direct, because when people hear talk sometimes it varies, when they repeat it, from what the person said, and I wouldn't like to state anything that would vary from what he said.

CHARLES THORN, called and sworn.

Mr. Perkins—Inasmuch as one of the witnesses reflected this morning upon the Mohongo, I would like to ask this witness a few questions about her.

Question—What is your profession?

Answer—Master mariner.

Q.—How long have you followed the sea?

A.—Most thirty-eight years.

Q.—Have you been in command of the Mohongo?

A.—Yes, sir.

Q.—Have you been in command of her while making the voyage between here and Victoria?

A.—Yes, sir.

Q.—Did you encounter a gale of wind in one of those voyages?

A.—Yes, sir; one of the most severe I have ever encountered.

Q.—State your experience in that gale of wind, and your opinion as to the seaworthiness of the Mohongo?

A.—I say she has no equal as a sea-boat that ever I have met.

Q.—You have no hesitancy, then; you say that you consider her a perfectly staunch and reliable ship to engage in any trade?

A.—Yes, sir.

Mr. Pullen—How long have you been sailing out of the Port of San Francisco?

A.—To sea and on rivers, since eighteen hundred and forty-nine.

Q.—Were you ever at sea on a ship in a gale of wind when you didn't feel safe in it—a ship that belonged to the Port of San Francisco?

A.—No, sir; never was.

H. H. WATSON, called and sworn.

Mr. Pullen—What is your business?

Answer—Marine surveyor.

Q.—For what company?

A.—British and Foreign, and State Investment, and Record of the American and Foreign Shipping.

Q.—How long have you been so employed in this port?

A.—I have been at that business about ten years.

Q.—In this port?

A.—Yes, sir.

Q.—Do you know the condition of the steamships sailing to and from the Port of San Francisco?

A.—Generally.

Q.—Have your company taken risks on the hulls of those ships?

A.—I have.

Q.—Did your company ever refuse to take any risks on such vessels?

A.—No sea-going vessels that I am aware of—sea-going steamers.

Q.—You had a risk on the Pacific?

A.—Yes, sir. Five thousand dollars.

Q.—Were you acquainted with the condition of the steamer Continental?

A.—No, sir.

Q.—Did you know the condition of the ship when she went to sea last?

A.—No, sir, I didn't. I had no occasion to know that.

Q.—In surveying those ships what do you do?

A.—If making a survey for classification, we dock them, cut them open so as to see how the timbers look, and generally everything about them—their apparel, sails, and anchors.

Q.—Do you examine the boats or life-saving apparatus?

A.—Yes, to see that they have their full complement of boats.

Q.—Do you find any of those steamships carrying passengers to and from San Francisco short of boats or life-saving apparatus?

A.—We don't make that so much a specialty, about the boats. We are there to examine the hulls in regard to the strength and the carrying capacity for cargo.

Q.—You don't take saving life into account?

A.—That don't come into the question of insurance, there being, as I said before, a special officer for that purpose.

Q.—Therefore, you don't examine the boats—examine whether they have proper boats and proper life-saving apparatus, life-preservers, rafts, etc.?

A.—We examine to see that there are boats sufficient to carry out anchors—not the boats she is bound to carry. We see if she has the ordinary complement of boats; we do not go into details.

Q.—Do you ever examine to see if there is proper hose to put out fire.

A.—Yes, sir; we have to look at that.

Q.—You examine that thoroughly?

A.—Yes, sir.

Q.—You examine as to fires?

A.—The general prevention of fires; taking care of fires.

Q.—Do you examine into their bilge-pumps? If the ship takes to leaking, whether they have proper facilities for keeping the ship dry in case of springing a leak?

A.—In making a survey for transportation, always.

Q.—You say you surveyed the Pacific?

A.—Yes, sir; a year and a half ago.

Mr. Roberts—How did you class the Pacific?

A.—We classed her 2, sir.

Q.—Have you surveyed, within the last twelve months, any other steamer?

A.—Yes, sir; the City of Peking.

Mr. Bagge—How did you find her?

A.—They made large repairs on her. She is in good condition.

Q.—She is a new vessel?

A.—She is a new vessel.

Q.—Isn't that the second time she has been repaired since she came out?

A.—She had some temporary repairs. There were some repairs the first time, but this time there were large repairs.

Mr. Pullen—Do you know what facilities the steamships America and Japan had for putting out fires?

A.—No, sir; I do not.

Q.—Did you never survey those ships?

A.—Only the Pacific Mail Steamship Company's, for class; I am speaking of surveys for classification.

Q.—You never examined—

A. [Interrupting].—To see that she has hose, and to see that her bilge-pumps, and donkeys, and everything of that kind are in order.

Q.—You think they were well provided?

A.—I could not say in regard to the Japan after she left. When she left here the supposition was she was well provided.

Q.—Do you know the number of steam-pumps she had?

A.—No, sir.

Q.—Do you know whether she had one?

A.—When she was in Japan I don't know that she had.

Q.—And yet you surveyed those ships?

A.—Yes, sir; I saw her here.

Mr. Roberts—Have you examined the steamers that are now running up on the northern coast of California and Oregon, and about Puget Sound?

A.—Yes, sir; such as we have risks on. When there is an application made for a risk on a vessel we go and make a survey to inform ourselves of the condition of the vessel at the time the application is made. When we make a survey or classification the vessel is docked, and she is cut in various places, and a very thorough examination is made to see what condition she is in. She is then given a classification; that may be for three, five, seven, or nine years, according to her standing. Then a survey is made any time any accident happens to the vessel, or she is docked; then another survey is made to see if that classification holds good. These surveys we make for insurance are not so rigid as surveys for classification. A survey for classification takes quite a long time. You have two experts with you, a master caulker and a master carpenter, and some one to help, and we cut and bore, and inform ourselves of the condition of the vessel. Then those classifications are put in different books; and if you, for instance, wanted to know the standing of a certain vessel, you would get one of these books, and refer to the place, and find her age, when repaired last, and when built, and everything pertaining to her up to time of the survey. A vessel nine years old may have had three or four classifications, and may have had only two, according to how she may have behaved, or whether she met with any accident.

Q.—Of your own knowledge, what do you think of our steam marine sailing out of this Harbor of San Francisco?

A.—The steam marine—some of the boats are very good boats. I think the average of classification would be about 1½. I think that, sir, would be a fair average. It might, taking the new boats, average better than that; but 1½ would be a fair average, I think.

Mr. Barber—What steamships have you held surveys on?

A.—The last was the City of Peking, and the Idaho, Montana, Alexander, Oakland; and they have certificates; but I mean superficial surveys. We go on board generally, when anything offers—risks on vessels.

Q.—In your opinion, all those vessels you spoke of are seaworthy ships?

A.—Yes, sir.
The Chairman—Did you say you made a survey on the Idaho?
 A.—Yes, sir.
 Q.—Were you here when a witness, a short time ago, testified her seams were filled with mud instead of oakum?
 A.—I didn't attend to that.
Mr. Pullen—That was the Oriflamme.
The Chairman—Do you know anything about the Oriflamme?
 A.—I don't know anything about her.
Mr. Pullen—Did you take any insurance on the Oriflamme?
 A.—No, sir; but we did on the Idaho.
Mr. Roberts—What company does the Oriflamme belong to?
 A.—I don't know.
Mr. Pullen—Do you know anything about the steamer Newbern?
 A.—I think she is about twelve years old.
 Q.—How does she rate?
 A.—One and a half I should call her.
 Q.—In examining ships you say that you generally employ experts, caulkers, and carpenters?
 A.—Yes, sir.
 Q.—You rely, then, upon the opinion of a ship carpenter and caulker?
 A.—The carpenter is there to cut out a space—say of four inches wide by ten or twelve long—so as to expose the timbers of the ship, and to bore the beams in the ends and the knees in the throats.
 Q.—They are considered experts?
 A.—They are there to do anything that we may direct.
 Q.—Would you not consider them as experts?
 A.—Certainly, sir; I would consider them as experts.
 Q.—You are not a ship carpenter?
 A.—No, sir.
 Here the committee adjourned until to-morrow morning at ten o'clock.

SECOND DAY.

SAN FRANCISCO, January 13th, 1876.

The committee met pursuant to adjournment, and the following testimony was taken and proceedings had:

JOHN BERGSTROM called and sworn.

Mr. Pullen—What is your business?

Answer—Church organ-builder.

Q.—Have you been to Victoria lately?

A.—I came back last Saturday morning.

Q.—What ship did you come back on?

A.—In the City of Panama.

Q.—What ship did you go up on?

A.—The Los Angeles.

Q.—Are you acquainted in Victoria?

A.—Well, I am acquainted with several persons now; I was not then, when I went there.

Q.—Do you know the Commissioner of Pilots?

A.—I know one.

Q.—What is his name?

A.—C. A. Chambers.

Q.—Did you have any accident on board the Los Angeles in going up?

A.—Yes, sir.

Q.—Please tell the committee what it was?

A.—The propeller broke down after we had been out thirty hours from San Francisco; then we were under sail all the time till we arrived there—at least nine or ten days, I think.

Q.—Do you know what was the reason of the accident—the cause?

A.—Well, the machinery was poor. That is the general opinion, and that was my own opinion. That was the opinion of all the passengers, and my own; but I think the ship itself was very good.

Q.—The hull of the ship was good?

A.—Yes, sir.

Q.—But you say the machinery was in a damaged condition when you left San Francisco?

A.—So I was told.

Mr. Bagge—You don't know yourself. Do you know that yourself? We don't want what people told you. State what you know yourself?

A.—I was not—

Mr. Barber—I would beg leave to differ with Mr. Bagge. If there was a person on board who was competent to say the machinery was poor, his opinion is what we want.

Mr. Pullen—Did you hear any engineer say so?

A.—The second assistant told me. When the accident happened I went below (I wanted to see what the matter was); I went below and told him, the engineer, if there was any assistance I could render I would do so. I don't claim to be a machinist, but a mechanic; I said if there was anything I could do I would help. He said he did not want anybody. He just fixed the machinery temporarily, and I told him if it had been me I would have fixed it another way. He said the part of the machinery that broke down was cracked, split about that length [showing]; he measured.

Mr. Bagge—Did you see that crack?

A.—No, sir.

Q.—What did you say the party's name was?

A.—I didn't state. The second assistant.

Q.—What name?

A.—I don't know his name.

Q.—Is he here in San Francisco now?

A.—I don't know. I presume so. He had been on the steamer before. His name I don't know.

Mr. Pullen—Did you see any timber supposed to have come from the steamship Pacific?

A.—I have not seen it myself, but there is parties in Victoria—

The Chairman—Let me ask how supposed to come from the steamer Pacific?

A.—It is supposed to, and I suppose it was the natural place to come from the steamer Pacific.

Q.—Do you know it did?

A.—No, sir.

Mr. Ostrom—It seems to me that this is not like an ordinary trial in Court. I am in favor of admitting hearsay evidence, or testimony that may have a bearing upon this question that we are trying to investigate.

The Chairman—If you start in taking hearsay evidence we could stay here five years.

Mr. Biggs—We could hear enough from the papers. I think it is necessary only to examine the witnesses as to what they know.

Mr. Rice—It is contrary to all rules in Courts of justice hearing hearsay evidence. It has no weight. Therefore, I object to any hearsay evidence being produced before this committee.

Mr. Bagge agrees with Judge Rice.

The Chairman—I rule we shall not accept any hearsay evidence.

Mr. Barber—I think the Pacific investigation should be examined into, and I desire to put myself right in this matter before the public, through the public press.

Mr. Pullen—I shall certainly take exceptions to the Chairman's rulings. I think, as I said yesterday, it is unjust and unfair, and I shall appeal from the ruling.

The Chairman—Mr. Clerk, you will call the roll in regard to the Pacific matter, and if the committee agree with me I shall not allow a question to be asked about the Pacific. The Clerk will call the roll. Those in favor of investigating the loss of the Pacific will vote aye, those opposed, no.

Mr. Ostrom—I voted no yesterday, but I shall vote aye, as far as anything coming up incidentally as to the Pacific.

The roll was called with the following result: Ayes two, noes five.

The Chairman—Mr. Pullen, we will admit of no question touching the Pacific in this investigation.

Mr. Pullen—I have no further question to ask.

Mr. Perkins—You were on the Los Angeles going up?

A.—I was, sir.

Q.—What is your business?

A.—Church organ-builder.

Q.—You say you were asked in the engine-room by the engineer?

A.—No.

Q.—You went there, claiming to be a mechanic?

A.—Yes, sir.

Q.—What kind of engines has the Los Angeles?

A.—I really can't state the name of it. You know as well as I what sort of an—

Q.—Are they a walking-beam engine?

A.—I can't tell the different—

Q.—Are they a low-pressure engine?

A.—I don't know.

Q.—Are they a compound engine?

A.—I think that is the name.

Q.—You don't know?

A.—I don't know.

Q.—How many cylinders has a compound engine?

A.—I don't know.

Q.—What part of the engine was broken?

A.—That big crank.

Q.—What is the name of that crank?

A.—I don't know.

Q.—In other words, you don't know anything about engines?

A.—I know what piece was broken, but not the name of it.

Q.—Where were these engines built?

A.—I don't know.

Q.—How old were they?

A.—I could not tell.

Q.—In other words, you don't know anything about it whatever?

A.—Nothing about the machinery; no, sir.

Mr. Ostrom—Mr. Perkins' questions have been rather leading. The witness said in his testimony before that he did know in regard to this shaft that was broken.

The Witness—Yes, sir; certainly, I did know that.

Mr. Perkins—In all due deference to the gentleman, there was no shaft broken. I claim that you should, in putting a witness on the stand here, see that he is competent. Now, Mr. Pullen is a competent man on that subject. Is this allowing the evidence of a competent witness to come here and pass upon our property? The first engineer, and the second, and the third of the Los Angeles are here in this city. They are here in the city, and can be here, if you will do justice to us and to the Los Angeles. Place Mr. Pullen on the stand, if you please; let him testify what he knows; but to bring a church organ-builder—I claim he is not competent to give testimony here before this committee.

The Witness—But still, I had so much judgment that I could see where it was broken down.

Q.—Please state to the committee what was broken. No shaft was broken.

A.—I can't state the name of the piece that was broken, but you know yourself it was broken.

Q.—You come here and say it was not in proper condition when the steamer left here?

A.—So they said.

Mr. Perkins argues at some length against the admission of hearsay evidence.

Mr. Ostrom—Mr. Perkins is aware that we take this hearsay testimony for what it is worth; and in regard to a knowledge of engines, I confess myself (and perhaps the majority of the committee are in the same condition), I don't know the difference.

Mr. Biggs moves that all the engineers of the Los Angeles be subpoenaed.

Mr. Perkins—Mr. Houghton is the Chief Engineer. He should be subpoenaed, I think; also, his assistants.

Mr. Biggs—We want all three.

JOHN COSGROVE, called and sworn.

Mr. Pullen—You are an engineer, are you not?

Answer—Yes, sir.

Q.—How long have you been an engineer?

A.—About nineteen years.

Q.—On ocean vessels?

A.—On ocean vessels.

Q.—Were you on the Japan at the time she burned up, and, if so, in what capacity?

A.—Yes, sir; chief engineer.

Q.—In what condition was that ship at the time she left San Francisco, as far as your department was concerned?

A.—In first-class order.

Q.—You knew nothing about the hull?

A.—No, sir; I did not.

Q.—What facilities had she for extinguishing fire?

A.—First-class. Her apparatus was first-class; second to nothing, at that time.

Mr. Bagge—This steamer Japan, is she here in San Francisco?

A.—Burned up; at the bottom of the sea.

Mr. Pullen—Do you know of any rotten ship—any that is unseaworthy—in port here?

A.—No, sir; I do not. That is not my business.

Q.—Do you know in what condition the boilers of those vessels are?

A.—I know the condition of the boilers of several of the mail company's vessels, and of the Los Angeles. I made a trip in her over a year ago, about, from San Francisco to Santa Barbara (?) and back.

Q.—You were acquainted with the condition of the Los Angeles?

A.—I was at that time. She was in first-class order.

Q.—Do you know whether any of the boilers on board the Pacific Mail Steamship Company's steamers are in good or bad condition?

A.—None; except those I come in contact with; those I was on myself.

Q.—Were you ever on any passenger-carrying vessel of the Pacific Mail Steamship Company, where the boilers were not considered safe?

A.—I was not.

Q.—In a heavy gale of wind?

A.—I was not; I consider the mail company never saved any expense in keeping their vessels in first-class order, in my time in their service.

Q.—You don't know of any vessels, then, at the present time—steamers—sailing to and from San Francisco, but what you would be willing to go to sea in, in any kind of weather?

A.—That is a question I can't answer. I would have to inspect the steamer.

Q.—Do you know of any you would have any doubts of?

A.—No, sir; I don't. Can't have any doubts until I make a thorough examination.

Q.—How would you like to go to sea in the Constitution in heavy weather?

A.—I wouldn't object to going to sea in the Constitution. I consider the Constitution a very good ship.

Q.—The Montana?

A.—I couldn't say anything about her; never on board her as engineer. I have been on board the Constitution and know a good deal about her.

Q.—Ever on the Alaska?

A.—Yes, sir; I came passenger from Hongkong on board the Alaska.

Q.—Ever on the Colorado?

A.—Yes, sir.

Q.—What kind of a crew are Chinamen, as far as your experience goes?

Mr. Biggs objects to going into that subject, and, after some discussion, the question is not pressed.

Mr. Perkins—You are a practical engineer and builder, are you not?

A.—Yes, sir.

Q.—Are you acquainted with the engines of the Los Angeles?

A.—Yes, sir.

Q.—How old are they?

A.—About eighteen months old.

Q.—By whom were they built?

A.—By the Risdon Iron Works.

Q.—What is your opinion of the machinery?

A.—I consider it good.

Q.—You consider, then, that the engines of the steamer Los Angeles are good work to-day?

A.—Yes, sir; good work.

MICHAEL MCCOY, called and sworn.

Mr. Pullen—What is your business, Mr. McCoy?

Answer—Caulker.

Q.—How long have you resided in San Francisco?

A.—Most ten years.

Q.—Do you work on ships when on the dry docks?

A.—Yes, sir; sometimes.

Q.—Did you ever work on any steamships—ocean steamships—carrying passengers to and from this port?

A.—Yes, sir.

Q.—Do you know, of your own knowledge, of any ships sailing to or from the Port of San Francisco—you being an experienced man among ships—that you would consider unseaworthy?

A.—Yes, sir. Well, I couldn't tell how many years it is now—I guess it must be seven or eight years, if not more—I worked on the New World. Then I didn't think she was a safe vessel to sail on. She has been running ever since, off and on. I worked on her then, and she was rotten.

Q.—Do you know of any ocean steamers?

A.—Well, I could not positively swear—there is plenty of them, but I couldn't swear that they was not seaworthy. I have not worked on a great many.

Mr. Bagge—The New World do you consider not fit to carry passengers between Vallejo and San Francisco?

A.—I wouldn't consider she was.

Q.—You could not say she was?

A.—No, sir.

Q.—You consider her a good steamer?

A.—No, sir; I do not.

Q.—Have you any proof she is not a good steamer?

A.—Yes, sir. I worked on her, and ought to know.

Q.—Seven years since?

A.—Seven or eight years, to the best of my knowledge.

Q.—Has not that vessel undergone repairs since that time?

A.—No; not enough to make her sound, seaworthy.

Q.—You consider her not a sound vessel now—to-day?

A.—No, sir.
 Q.—Have you been on board the vessel lately, since they were last repaired?
 A.—Not lately—I have not. If she had been repaired I would have known it.
 Q.—What reason to suppose she is not a good vessel?
 A.—I don't understand you.
 Q.—What reason—being seven years since you were on board that vessel—she has lately been repaired, and now running between San Francisco and Vallejo—what reason have you to say she is not a good vessel?
 A.—I don't remember when she was repaired—not since—
 Q. [Interrupting]—You don't remember. Well, I know they were repaired and put in good running condition, and I want to you to—I would like to know what reason do you say they are not a good vessel. Have you been on board that vessel lately—since it was repaired?
 A.—Not lately.
 Q.—You haven't been on board that vessel; haven't seen her lately? Have you sailed on her from here to Vallejo?
 A.—Not of late; I have not.
 Q.—Then I want to know the reason you say she is not a seaworthy vessel to run between San Francisco and Vallejo, and if you make the statement, why she is not a good vessel?
 A.—I don't think her hull is very sound.
 Q.—You must know, when you make a statement.
 A.—Well, I know.
 Mr. Pullen—Did you ever work on any ocean steamers?
 A.—Not lately; I have not.
 Q.—Do you know of any ocean steamers that have any rotten timbers in them?
 A.—Take the whole of them, they have rotten, more or less, timbers about them.
 Q.—Did you ever see a steamer passed, on the dry dock, by the United States Inspectors, that you wouldn't think seaworthy?
 A.—Yes, sir; I have seen a ship passed one time, on the dry dock, that ought to have been stripped, caulked, and coppered, before she went to sea. It is a good while ago. I don't remember.
 Q.—Who was Inspector of Hulls at that time?
 A.—I suppose Captain Waterman.
 Q.—What do mechanics generally think of Captain Waterman's inspections, here in the city—ship carpenters and caulkers?
 Mr. Bagge objects to the form of the question.
 The Chairman—I would suggest you might ask the witness, personally, what his opinion is.
 Mr. Pullen—What is your opinion of Captain Waterman as an Inspector of Hulls?
 A.—I don't know. I see some vessels that he passed, I wouldn't consider them seaworthy.
 Q.—You wouldn't consider them seaworthy?
 A.—No, sir.
 Q.—Steamships?
 A.—No; there is some of them sailing vessels running from here to Liverpool.

Q.—Wouldn't he be as likely to pass a steamship as a sailing vessel?
 A.—I expect he would.
 Q.—You don't know of any passenger-carrying vessel, except the New World—that is, a steamer—that you think is not fit to go to sea, or to any part of the world?
 A.—I could not say about that.
 Q.—Are there any passenger-carrying ocean steamers, sailing out of the Port of San Francisco, that you wouldn't like to go on, in case you knew she was going to get into a gale of wind?
 A.—Yes, sir; there is one, the John L. Stephens. I wouldn't like to go on her.
 Q.—Do you know of any other?
 A.—Well, I couldn't say, except the William Taber; I wouldn't like to go to sea on her.
 Q.—Did you ever see the Orizaba on the dock?
 A.—I don't know.
 Q.—Never did?
 A.—Not to my knowledge. I don't remember of seeing her on the dock.
 Q.—Did you ever see the Ancon on the dock?
 A.—I don't remember whether I ever did. I know the steamer very well. I saw her rebuilt the time the mail company had her.
 Q.—What steamships did you see on the docks—ocean steamships—and work on; name some?
 A.—I forget now; it is so long since I worked on them. I worked on some of the mail boats.
 Q.—Did you ever work on Holliday's boats?
 A.—No.
 Q.—Did you ever work on Goodall, Nelson & Perkins' boats?
 A.—I worked on one of Goodall, Nelson & Perkins' boats some years ago—I could not tell how many. They were rebuilding her then.
 Q.—Who was Inspector of Hulls at that time?
 A.—Captain Waterman.
 Q.—You stated a little while ago that there were ships sailing out of the Port of San Francisco, carrying passengers, that you would be afraid to go to sea on, did you not?
 A.—Well, I named the steamers I thought rotten. I could not swear the others positively.
 Q.—You know of none except the John L. Stephens?
 A.—And William Taber?
 Mr. Roberts—You say you are a caulker?
 A.—Yes, sir.
 Q.—How have you arrived at your knowledge as to the unseaworthiness of any of these vessels?
 A.—I have a right to know when a seam don't stand caulking—when it is rotten inside.
 Q.—Have you ever been to sea?
 A.—No, sir; only coming here—sailing from one port to another—never went to sea for a living.
 Q.—You stated in the early outset of your evidence that you had worked on the New World, which is the same boat now plying between the City of San Francisco and Vallejo?
 A.—Yes, sir.

Q.—About seven years ago?
 A.—Well, to the best of my knowledge, somewhere along there.
 Q.—Has that boat, to your knowledge, been stripped and recaulked?
 A.—No, sir; not to my knowledge.
 Q.—Is there more than one company here that takes contracts of caulking vessels and overhauling?
 A.—Oh, yes; several companies.
 Q.—Then you have no knowledge of what other companies do in regard to caulking and repairing—only just the company you work with and for?
 A.—Well, I couldn't swear to what other people does when I don't work on her, because I don't know—only hearsay.
 Q.—Then, of your own knowledge, you don't know but the New World has been overhauled and rebuilt since?
 A.—If she had been rebuilt I would know it, I guess.
 Mr. Biggs—What company are you caulking for?
 A.—Any company I can get to work for.
 Q.—Have you worked on the John L. Stephens the past year?
 A.—No; not the past year—I have not.
 Q.—How long has it been since you did work on it?
 A.—Well, I couldn't tell; may be two or three years, I worked on her, back.
 Q.—Have you worked on any steamships for Goodall, Nelson & Perkins the last year, or two years, caulking?
 A.—Yes, sir; I worked on one of them; I forget her name. They rebuilt one. I worked under Mr. Gates.
 Q.—How long since?
 A.—I couldn't positively say.
 Q.—Was she on the dry dock?
 A.—No, sir; alongside the wharf, rebuilding.
 Mr. Bagge—You don't know the name of the vessel?
 A.—I can't remember her name.
 Mr. Roberts—Was she a side-wheel steamer?
 A.—No, sir; I believe she was a propeller.
 Mr. Barber—Would you know the name if you saw her?
 A.—They repaired so many, I could not think of her name.
 Q.—Wasn't it one of those ships that used to be owned by the Government—a cutter—the Ventura or Los Angeles?
 A.—I believe it was.
 Mr. Roberts—That particular ship you speak of that you worked on for Goodall, Nelson & Perkins, you don't remember the name of?
 A.—No, sir.
 Q.—Do you remember anything about the condition of the hull? Was it sound?
 A.—I think the hull was sound. They had put in new timbers, to the best of my knowledge.
 Mr. Biggs—Was it sound so far as you inspected it?
 A.—Yes, sir; it ought to be sound, as it was new timbers—new wood.
 Mr. Barber—The ship was rebuilt—raised—another deck forwards?
 A.—Yes, sir; she was raised. To the best of my knowledge it was the Ventura, as far as I can remember.
 Mr. Perkins—Refresh your memory, and see if you don't know it was the Kalorama you worked on?

A.—It might have been; one or the other.
 Q.—The Kalorama is not a passenger ship, is she?
 A.—No, sir; I believe not. I am not sure which one I worked on.
 Q.—You said that Captain Waterman had passed sailing vessels which, in your judgment, you didn't consider seaworthy, did you not?
 A.—Yes, sir.
 The Chairman—We have nothing to say about sailing vessels.
 Mr. Perkins—You spoke of the Taber—that Captain Waterman had issued a certificate to the Taber. Do you know it of your own knowledge?
 A.—No, sir.
 Q.—Do you know that application had been made to him for a certificate for the Taber, and he refused it until certain work had been done?
 A.—I don't know.
 Mr. Barber—How long since the Kalorama knocked off carrying passengers?
 Mr. Perkins—Two or three years.
 Captain Traverse [representing the Oregon Steamship Company]—If you have worked on board the John L. Stephens, when was it?
 A.—I worked on her back some years ago.
 Q.—When?
 A.—After she had a new deck put on.
 Q.—How long ago was that?
 A.—I couldn't say for certain. It must be one or two years, I suppose.
 Q.—Do you know that she was rebuilt, strengthened, and thoroughly overhauled?
 A.—Yes, sir; I knew that; she had a new deck put on.
 Q.—Nothing else?
 A.—I could not say; I don't remember—
 Q.—How long did you work on her?
 A.—I only worked a little while.
 Q.—How long?
 A.—I don't remember. A couple of days—somewhere along there.
 Q.—Do you know that that vessel was rebuilt and thoroughly overhauled at that time?
 A.—Well, I remember that she had a new deck on.
 E. W. TRAVERSE, called and sworn.
 Mr. Pullen—What is your business?
 Answer—Ship master.
 Q.—How long have you been a ship master?
 A.—Twenty-five years. I have been the last ten or fifteen years ashore.
 Q.—You represent the Oregon Steamship Company?
 A.—I am there with them.
 Q.—Will you please state to this committee what you know about the John L. Stephens?
 A.—I know this, that our folks partially rebuilt her, and I know that she is a stronger ship to-day than she ever was in the world the first day she was built. That is what I know about her. Originally the John L. Stephens was a weak ship, but we have strengthened her in every shape and manner, and put pointers in her, new plank-

ing, new decks, new beams, and all that sort of thing, all through her.

Q.—Are you well acquainted with the shipping of this port?

A.—Yes, sir.

Q.—Do you know any steamships in port, sailing to and from the Port of San Francisco, that you would feel unsafe in at sea?

A.—I do not.

Q.—You think they are perfectly seaworthy?

A.—I do, sir.

Q.—What is the reason your company has the John L. Stephens laying up in the winter months?

A.—Because there is no freight going, and a small ship does the business. The *Orifamme* does the business as well as the Stephens, and the Stephens is a very expensive ship to run.

Q.—Is there anything the matter with the Ajax?

A.—Yes, sir; the Ajax has broke the sleeve.

Q.—Busted her sleeve?

A.—Yes, sir; busted her sleeve.

Q.—Where the shaft goes in?

A.—Where the shaft goes in; yes, sir.

Q.—Has any other ship taken her place?

A.—The Idaho.

Q.—What condition is the Idaho in?

A.—The Idaho is in very good condition.

Q.—How long since she had her boilers?

A.—Her boilers was overhauled about three months ago, I think. She was thoroughly caulked and coppered new.

Q.—How were they overhauled?

A.—Well, our Superintendent, Mr. Phillips, is a very thorough man. I didn't superintend it myself, nor didn't see it done. I know he is a very thorough man, and when he undertakes to do——

Q.—Do you know anything about boilers?

A.—I don't profess to be an engineer.

Q.—Then you don't know whether the boiler is good or bad?

A.—Well, I know one thing; I know Mr. Phillips never leaves anything half done—never. He has been in the company's employ many years, and is a very capital man.

Q.—Is the Idaho away at sea now?

A.—I don't know. She goes next Tuesday.

Q.—You spoke about the John L. Stephens. You say she was built twice—done everything necessary to make her strong and seaworthy two years and a half ago?

A.—I know that. That I know, because I know when a ship is built, because I have superintended ships myself. I am speaking of what I know, now.

Mr. Barber—You think she is just as safe a boat to go on the northern coast as any other vessel running there?

A.—Yes, sir; I think she is just the same.

Mr. Ostrom—Do you know anything in relation to the insurance on the John L. Stephens? Do insurance companies take risks as low on such a vessel as on a newer one?

A.—Yes, sir. I can go to insurance companies in this city and get insurance on the Stephens as low as on any other vessels here, notwithstanding Captain Burns' talk here yesterday.

Q.—There was testimony here yesterday to the contrary.

A.—I was here yesterday, and don't believe Captain Burns has had his foot on that ship in ten years.

Q.—Two or three witnesses testified here yesterday that they would not be willing to take risks on the John L. Stephens?

A.—Those witnesses, I suppose, have not had their foot on the John L. Stephens in ten years.

Q.—How do you class this John L. Stephens?

A.—She classes A2.

Mr. Pullen—Is that considered to be a good class?

A.—Yes, sir; passable.

Q.—Captain Noyes said it was only barely insurable?

A.—Every one of those ships is an old ship. You should not condemn a ship because she is old.

Mr. Bagge—Isn't the steamer Stephens what they call a summer steamer—not fit to go out in stormy weather?

A.—She is a summer steamer, because we have plenty of freight in summer and not in winter.

Q.—Would you, believing a good storm was coming on, would you like to go to Oregon or Victoria, or anywhere—would you be willing to risk your life in the Stephens?

A.—Yes, sir; as soon as any ship on this coast.

Q.—Did I understand you to say you could have this John L. Stephens insured as low as any other vessel?

A.—I never tried to. I suppose I can.

Q.—You can have her insured, then, as low as you can a vessel or ship that is classed A1?

A.—Yes, sir. Some of them may make some discrepancy, but I do not suppose they would. I have never heard any complaint. Insure her cargoes—we never insure vessels.

Mr. Barber—Would you insure a ship for the same parties, that rated A2, as you would one that rated A1, with a star?

A.—I will explain myself, and then answer the question. If I knew the ship, and knew she had been overhauled, I probably would; but take a ship that I knew nothing about, and I probably would not.

Q.—Answer my question?

A.—No, sir; the ship will not insure as low as——

Q. [Interrupting]—Don't you think if the John L. Stephens was to be rebuilt she would be rated A1, or 1½, instead of 2?

A.—She is a sound ship, and as strong a ship as you can make her.

Mr. Biggs—Why doesn't she rate as A1?

A.—Because she is an old ship; that is the cause.

Q.—How old a ship is she?

A.—I forget. She is twenty-three or twenty-four years old, I think.

Mr. Barber—When did you have a survey of the John L. Stephens—when classing?

A.—Well, really, I forget.

Q.—Then you don't know how long she has rated A2?

A.—I know she was rated A2, I think, about a year ago. I think so. I am not sure.

Mr. Pullen—What did she rate previous to that?

A.—She has not rated any better than A2 for the last three or four years, I don't suppose.

Mr. Roberts—How long since she was rebuilt?

A.—I think, two years and a half.

Q.—Had she been running for any number of years prior to rebuilding?

A.—Yes, sir.

Q.—She was rated for a long time?

A.—Yes, sir; I know she was.

Q.—Then she was rebuilt before she had been surveyed?

A.—She was partially overhauled, and then run to Mexico for a long time.

Q.—Didn't she make a voyage to Sitka?

A.—Yes, sir; she made a voyage to Sitka—two of them.

Q.—After she had been condemned, when she belonged to the mail company?

A.—Yes, sir.

Q.—They caulked her and did some light repairs, and sent her to Sitka?

A.—Yes, sir; and she behaved admirably. We had the heaviest freight in her that any ship ever took up.

Mr. Biggs—Did I understand you that she had made two trips to Sitka after being condemned?

A.—Oh! no, sir; the mail company—you don't understand—

Mr. Pullen—Had the mail company condemned her previous to your buying her?

A.—They laid her up. I don't know whether they had condemned her or not.

Mr. Bagge—The mail company thought that ship was not fit to send to sea, and then your company bought her?

A.—Yes, sir.

Q.—And you gave her a little light repairs and sent her up to Sitka?

A.—Gave her all the repairs she needed. She never leaked. There was no complaint of her.

Q.—Don't you know that vessel, the Stephens, is known all about as an unseaworthy vessel; not able to stand any stormy weather?

A.—I notice she has stood a good many storms. We never knew of a dollar's damage, or nobody else, yet; and she has never complained any.

Mr. Pullen—Has she a certificate from the United States Inspector?

A.—Yes, sir; she has, or else she could not run.

Mr. Barber—Is the ship insured now?

A.—We never insure any ship.

Q.—You never insure any of your line?

A.—No, sir; never have.

Mr. Bagge—These vessels your company owns besides the Stephens?

A.—Yes, sir.

Q.—What vessels?

A.—Oriflamme and Ajax.

Q.—What kind of vessel is the Oriflamme?

A.—A very fine ship.

Q.—An old one?

A.—I think—I don't know just—probably eight or ten years old. I don't know but she may be a little older.

Q.—Is she built with copper bolts or iron?

A.—The Oriflamme is copper-fastened below water.

Mr. Barber—Can you get cargo that is taken in the John L. Stephens insured for the same rates as on a steamer that rates A1?

A.—Yes, sir.

Q.—You can?

A.—Yes, sir; exactly—no difference. I have never known any difference.

Mr. Ostrom—Do you know what grade certificate the Oriflamme holds?

A.—I do not. She has been the safest ship. I don't know what she rates; I think A1½.

Mr. Barber—Belongs to your line?

A.—Yes, sir. We never have them rated, and so I don't know and don't care. They are not for sale.

Q.—You think if you wanted to sell them you could get them rated?

A.—Yes, sir; time enough.

Mr. Bagge—Do you think anybody would buy the Stephens for use as a passenger vessel outside the harbor?

A.—Why, about that, I think they would if they wanted the ship.

Q.—If you were running steamers, and the Stephens were up for sale, and you were running passenger ships from here to Victoria, would you, if you could get any other vessels or ships, would you buy the Stephens?

A.—It would depend on circumstances. If there were plenty of passengers and freight, I would take the Stephens; but if not sure of carrying a good load of freight and a good many passengers, I wouldn't want her; I would buy a small ship.

Q.—You think she is a safe ship—that your conscience would allow you to buy that ship?

A.—Yes, sir. If I didn't know her—

Q. [Interrupting]—You think your conscience would allow you to buy that vessel, and let passengers go on board, and run her up and down the coast?

A.—Yes, sir; I do.

Q.—You don't think you would drown them?

A.—No, sir.

JOHN ROBERTS, called and sworn.

Mr. Barber—What is your business?

Answer—I profess to be a caulker. I work at caulking.

Q.—How long have you been in San Francisco?

A.—Ten years.

Q.—Following the business all the time?

A.—Yes, sir.

Q.—Did you ever work on any of those steamships running out of the Port of San Francisco?

A.—I served most all the time the Pacific Mail Steamship Company. Occasionally I worked on other boats—very seldom.

Q.—What steamers have you worked on?

A.—Well, all the mail company's on this side, except the iron ships on this side—the new ones. Occasionally they caulk the deck, but very seldom, for the new ones.

Q.—What is your opinion as to their soundness?

A.—Some of them are pretty soft.

Q.—State to the committee what ones you have worked on that are soft. You mean the timbers are rotten?

A.—I worked on the *Salvador*. I don't know how long her decks had been caulked before that; and we reeved her out—I mean, we take an iron, and take the old oakum out of the seams. In a great many places the seams were an inch wide and filled up with putty. I don't doubt but in a great many places a man could go with a bar and pass it right through the deck, it was so rotten. Any man can go there and see for himself.

Mr. Pullen—She is away at sea now?

A.—I don't know whether she is or not. Then I worked on the *Costa Rica*—her deck—at the time she was wrecked outside here. Her deck, what I know, is pretty good—the wood is; but all in the saloon was soft to caulking. In the saloon you can go to-day—I don't know as the deck has been caulked since that—you can go to-day, and with a pen-knife take any of the seams, from one end of the saloon to the other. Any man can see for himself. I worked on a ship there—on the *China*, or *Great Republic*, I don't know which. A man worked with me named Frank Rollins (he is now working in *Oakland*), and we found some pretty bad places. It was always customary, when there was a bad place in the ship, to report to the boss. We reported to the foreman caulker, and the caulker reported to the master carpenter. We found some places, and reported to the boss. He said: "I will see when the boss comes along." And the carpenter said to me—

Q.—Who was the boss carpenter then?

A.—Dan. Cameron. He said it was damned queer we found so many rotten places, and no one else found them. I told him I thought it was a damned good man who could find a rotten place in a ship.

Q.—You thought you were the kind of man that ought to be employed—one that could find a rotten place?

A.—That was the custom heretofore, but times is changed a great deal. I worked on the *Colorado* one time. I suppose you could go with a chisel and mallet, and take the whole wheel, from the top down, and scrape off the paint, and I think the balance you could scrape all off in a half an hour. She has not been caulked in a long while; and there are rotten timbers in the *Colorado*.

Mr. Bagge—Who does the *Colorado* belong to?

A.—She flies the flag of the Pacific Mail Steamship Company.

Mr. Barber—It is of your own personal knowledge that you say there are rotten timbers in the *Colorado*?

A.—Yes, sir; of my personal knowledge; and the vessel has been wanting some repairs; and I have heard (perhaps not from good authority) they were afraid to pitch the *Colorado*—afraid they would find her a good deal worse than they knew her to be. And there is another ship, the *Constitution*. Some time ago (I think a gentleman named Waddel was Superintendent of the line then—he is a man who always likes to have the caulking done on his ships—he always likes to have good work done), we caulked the outside. She didn't want much outside, if I know how her timbers is. Where we caulked outside, the planking was good; but right on the main deck, where the doors and alley-ways are, a good heavy man could go and jump right through places in the main deck. They have been promising to put in a new deck, but they have not done it yet.

Mr. Bagge—What steamer is that?

A.—The *Constitution*.

Mr. Barber—That is three you have told us about—or five?

A.—The *China*, the *Great Republic*, the *Costa Rica*, and *Salvador*. Justice ain't done, gentlemen, I want to tell you. There is a great many men knows vessels are very bad.

Q.—You know positively those ships are rotten, of your own knowledge?

A.—Yes, sir; spots can be found right on the ships when in port. There is a great many men works in the business; no boss will run down his business; many men working in the business wouldn't come up to testify. They know they would injure themselves. I know that testifying as I am testifying, I couldn't get work; perhaps I will never get another day's work from them.

Mr. Pullen—Is that the way taken here—the way they do things?

A.—There's a wheel within a wheel.

Mr. Barber—You are positive if it was not for fear you could get many men to come and give the same evidence you give?

A.—Yes, sir; there is some men works for the same employers. If I go and testify against the men I am gone.

Q.—You don't get on the roll?

A.—Only when all stragglers are needed, then the stragglers comes in.

The Chairman—Have you ever worked on the *Montana*?

A.—Yes, sir.

Q.—What condition was she in?

A.—I worked on her two years ago next April, up in *Benicia*. She sunk there. What I know about her, her bottom needs caulking very bad, and she was on the dry dock, and she needed caulking, but she did not get it. I don't know, but outside her bottom needs caulking. If that were done, to the best of my knowledge, she would be pretty good.

Mr. Pullen—You spoke of Captain Waddel, who was Superintendent at the time?

A.—Yes, sir.

Q.—How long since he was Superintendent of that line?

A.—I couldn't tell. I suppose two years and a half. I don't know. I can't tell how long it is.

Q.—The ships were generally kept in good order during Captain Waddel's superintendency?

A.—He was a man who wanted plenty done, but he wanted it done good.

Q.—He was particular?

A.—The man there now is not so particular as he was. They don't trouble themselves much about the caulking.

Q.—Could you point out the rotten spots in these vessels if we took you down there?

A.—I can't tell which ship it is—the *Great Republic* or the *Japan*.

Q.—The *Salvador*?

A.—Oh! yes, sir. Any man can go down there and see it. As a general thing, all over the deck the same.

Mr. Roberts—Where is the *Salvador* running?

A.—I believe she is running up to *Victoria*. There was some talk in the papers about her. They fixed her and passed her.

Mr. Pullen—Did Captain Waterman know of this condition?

A.—I can't tell about Captain Waterman—I never spoke to the man. When I have been working he has been around, and I know the man by sight.

Q.—Did you ever see him pass over any ships that you would say were unseaworthy?

A.—I never had occasion to know when a vessel needed to be passed. I knew when work was needed to be done—didn't know whether the time had expired.

Mr. Barber—Are there any of those ships in port you have mentioned?

A.—The Montana is in. I don't know anything about her, except her bottom. I think that must be pretty bad by this time. She was coppered with very light copper, but not all over. I worked on her up at the Navy Yard, caulking under the boiler—that was the only place—forty feet there was caulked.

Mr. Pullen—Are you acquainted with the condition of the Great Republic?

A.—If that is the ship I have reference to—if that is the ship, she is out in the stream—and it is just the fore part and aft part of the wheel.

Q.—Do you know of any ships of the Pacific Mail Steamship Company, running from Panama, that they were afraid to wash the decks off, for fear of damaging the freight?

A.—No, sir; I have not been out on the mail dock much, lately; not for a year, I suppose—eight or ten months.

Mr. Bagge—If the Pacific Mail Steamship Company will allow us to go on board their vessels and examine them, will you go with us, and show us the rotten spots?

A.—Yes; I will go right now and show you what I know about it. I could go and find the places that needs repairing.

Mr. Ostrom—Is it usual in vessels in moderate repair, to find rotten spots in them—vessels from five to ten years old?

A.—The Pacific Mail Company's steamers, the big steamers, there were—there has been often planks taken out that is rotten—I worked on the steamship America that was burned, and when she came here the first time, planks were found that were soft; and they were taken out.

Q.—How old was she at that time?

A.—I don't suppose two years old, at that time, when she came out here. She came right out here from New York.

Mr. Pullen—Did you ever work on any other steamers besides those of the Pacific Mail Steamship Company?

A.—I worked on pretty much all the ships that the Oregon—

Q. [Interrupting]—Did you work on the Pacific?

A.—Yes, sir.

Q.—Did you ever work on the Orizaba at the time she belonged to the Pacific Mail Steamship Company?

A.—Yes, sir; not much; never had occasion to do much to her.

Q.—Did you ever see her out on the dock?

A.—No; she was on the dock while I was in the mail company's employ, but I didn't see her.

Q.—Did you ever see the Pacific on the dock?

A.—Yes, sir; I worked on her on the dock.

Q.—Was her bottom sound or not?

Mr. Rice objects to the question, under the ruling.

Mr. Barber—What is the boss caulker's name that you have spoken of, while you were at work for the mail company?

A.—There was one when I worked there—the only man was Mr. William Tardiff.

WILLIAM WADDEL, called and sworn.

Mr. Pullen—What is your business?

Answer—Well, sir, I have been for a good many years as an engineer.

Q.—Did you ever superintend—general superintending engineer?

A.—I have held both of those positions, sir.

Q.—You are acquainted with most all the ships sailing to and from this port—steamships—pretty well acquainted?

A.—Well, of course; I have had considerable to do with a good many steamers at this port.

Q.—The Orizaba, Senator, Pacific, and the Gypsy—those ships that were sold a little over two years ago, during the time they belonged to the Pacific Mail Steamship Company?

A.—The most of those ships that you speak of were bought by the Pacific Mail Steamship Company from now what is termed the Oregon Steamship Company, or generally known as Ben. Holladay's ships—the North Pacific Transportation Company.

Q.—What was the condition of those ships when your company purchased from the Holladay line?

A.—I don't know. The company bought those ships without any inspection by the officers of the Pacific Mail. All they knew of those ships was that I myself had an order, and Captain Cox, who was then Superintendent of Hulls, etc., to receive those ships without making any examination, or making any report. Therefore, being as the owners had purchased those ships in that manner, it was not our business to make any examination of them—to take them as they were. Mr. Pullen asks me what the condition of those ships was. I say that I am not aware in what condition they were when they were turned over from one company to the other. The company—that is the Pacific Mail Steamship Company—the owners—bought those ships from this company without issuing any order to any of their officers to make any examination regarding the ships; the ships were turned over to the Pacific Mail Steamship Company as they were. Therefore, I, as an officer of the Pacific Mail, had no authority to make any examination, neither did I.

Q.—Do you know what the company paid for those ships?

A.—No, sir.

Q.—Do you know what the value of those steamships is, Captain?

A.—Well, they vary.

Q.—What would be the value of such a ship as the Pacific, or Senator, or Orizaba—that is, at the time your company bought them?

A.—Well, the Pacific. That depends a good deal in what trade you might have for her, and also in the business that you might have for her to run in.

Q.—You don't know, of yourself, whether any of those ships were unseaworthy?

A.—I do not, sir. I am not aware that there were any of those ships unseaworthy. They all had a class.

Q.—Were you in the employ of the Pacific Mail Steamship Company at the time those ships were sold to Goodall, Nelson & Perkins?

A.—I was not, sir. I have not been in the Pacific Mail Steamship Company's employ since the end of November, eighteen hundred and seventy-three.

Q.—Did you ever examine any of those ships when on the dock?

A.—You mean of those last-named ships?

Q.—Yes, sir.

A.—We had no occasion for to make any special examination. The *Orizaba* was on the dock once under my superintendency. We found nothing at all suspicious for us to make any minute examination. The surveyors were invited to look at the ship while she was out of water, and there was no commands made and no demands made for bettering her condition, further than to make her renew her copper and caulking, which was done in a good workmanlike manner.

Q.—Was there any of the rest of those ships overhauled during the time of your superintendency?

A.—The *Pacific* was overhauled.

Q.—What was done to her?

A.—There was considerable done to the *Pacific*. Captain Waterman—

Mr. Rice objects, as contrary to the ruling heretofore made.

Mr. Pullen—What did you do to the ships, in regard to repairs?

A.—Captain Waterman, before he would renew the certificate of the *Pacific* at that time, demanded that she should have some of her outside planking stripped, also her ceiling inside, so as that he could examine the timbers of the ship regarding their soundness. All that he asked was done, in the way of opening up the ship to examine her. Captain Waterman came down and examined her, while she was open, very carefully and very closely—I, in company with him and Mr. Cox, who was then the master carpenter under my superintendency. We found the timbers of the ship better than Captain Waterman anticipated to find, and he was satisfied that she was in better condition, regarding her timbers, than he expected to find her. He also found that she was diagonally strapped, which he theretofore was not aware of. He then ordered new ceiling to be put inside and fastened through and through. That ceiling he ordered should be five inches thick, which was run nearly the entire length of the ship, except, probably about one-third—that would be two-thirds, that is in the middle of the ship, leaving a portion at one end and a portion at the other, which, in his judgment and ours—that is, Mr. Cox's and my own—was not necessary to carry to the extreme ends.

Mr. Ostrom (Chairman pro tem.) objects to this testimony, under the ruling of this morning.

Mr. Barber—I move that we reconsider that ruling.

Mr. Pullen—I second the motion.

Mr. Rice—I object to the motion in consequence of the committee not being full. [The Chairman had retired temporarily.]

Mr. Ostrom—I would prefer that Mr. Barber withdraw that motion, and we proceed with the witness.

Mr. Barber—I don't wish to withdraw the motion. I call for the previous question.

The motion is argued further by Messrs. Roberts and Rice, and Mr. Murphy returns to the room.

Mr. Barber—I move the previous question.

The Chairman—I object, because Mr. Barber did not vote in the affirmative, and he cannot vote for a reconsideration.

Mr. Rice—The gentleman who seconded the motion did not vote in the affirmative.

Mr. Pullen—Do you know the condition—you say you didn't know the valuation of those ships when sold to Goodall, Nelson & Perkins?

A.—That is what I said.

Q.—What would be the valuation of a ship A1 or 2? What would be the value of a ship eight or nine hundred or a thousand tons?

A.—I am not familiar with the cost.

Q.—You can give a rough guess. You are pretty well posted in regard to ships and ship-building.

A.—I am not qualified to give the price in regard to such property.

Q.—Do you know of any ships—were you ever in your life, when going to sea on board of ocean steamers, at sea on a steamer at any time when you didn't feel safe on her?

A.—I have never been to sea on any ship as an officer that I didn't have entire confidence in the ship; otherwise, in all probability, I wouldn't have gone in her.

Q.—But do you know of any ships going to sea, or that have been going to sea within the last five or six years say, that you wouldn't consider very safe ships in a heavy gale of wind?

A.—So far as answering that question, I am not familiar with every steamship and steamboat that is going to sea out of this port.

Mr. Ostrom—Anything that you may know in relation to this matter is what we want to know—not opinions.

A.—I don't know of any.

Mr. Pullen—You don't know of any?

A.—I don't know of any that I could substantially say was unseaworthy, or not fit to go to sea. I know there is many vessels, not new vessels, which can't be expected to be as good as they were in their minor years.

Q.—In what condition was the machinery of those vessels, engines, and boilers, that you spoke of a while ago?

A.—Those vessels that was turned over to us from the North Pacific Transportation Company?

Q.—Yes.

A.—Well, they were in fair condition, sir; considering the number of years that they had been running.

Q.—The company did a good deal of repairs, didn't they?

A.—We done considerable repairs, as they show themselves—requiring nothing of any great importance, further than what was required to make them in what we considered good condition—what was necessary.

Q.—Didn't some of those ships need repairing immediately after they came into your line?

A.—I think that the *California* was the only ship that we done anything to. The *California* and the *Mohongo* was the only two ships we did anything to previous to running. The *California*, we did something to her boilers, and the *Mohongo* we gave a new steam-chimney; and that is about the whole extent in regard to that. The *Mohongo* had trouble with ——— and working water, and I calculated that the trouble came from want of steam-room; therefore I gave the *Mohongo* more steam-drums, and since that she has had no trouble. Of course we spent considerable money to do that, but it

was necessary to do that. That, I think, was necessary—it was from an oversight when they repaired the vessel after it was sold by the Government to the parties that bought her; it was an oversight in not doing that when they converted her from her former condition to her present condition.

Q.—Could your company secure insurance on freight on those ships at the same rate that they did on other ships?

A.—That is a question that I am not familiar with whatever. That is a part of the duty that I had nothing at all to do with. I am perfectly ignorant in regard to that. So far as insurance is concerned, that belongs with the agent.

Q.—Do you know of the general condition of the steamboats belonging—the wooden steamships—belonging to the Pacific Mail Steamship Company at the present time—can you speak of your own knowledge?

A.—At present, and for over two years, I have not been in the Pacific Mail Steamship Company's employ. Previous to December, eighteen hundred and seventy-three, I had a fair knowledge of the condition of the various ships that the company had. Since that I am utterly ignorant in regard to their business. I know nothing of their business whatever.

Q.—You say that the ships they bought of Holladay at that time were in good condition?

A.—I said (if I am not mistaken), in ordinary fair condition.

Q.—What do you call "ordinary fair condition?"

A.—Not a new ship—not a ship of five years old—which is not a new ship. Some of them are old ships, and can't be—

Q. [Interrupting]—How long do you think a steamship ought to last?

A.—That depends a great deal on the material first put in them, and how long it is seasoned; and also in the amount of money that is expended in putting that material together. With reference to the various ages to be put on steamships, I think with those that were built twenty-five or thirty years ago more care was taken in selecting the material and putting the material together than may be at the present day.

Q.—Do you think a ship of nine hundred or a thousand tons—steamship, machinery, and everything completed ready to go to sea—would she be worth one hundred thousand dollars?

A.—What class?

Q.—A1, or A2?

A.—As far as vessels of nine hundred tons—a new vessel, or one pretending to be a new vessel—it would cost that amount of money.

Q.—It would cost more than that, wouldn't it?

A.—It depends altogether, as I have told you, on how she is put together, and the value of the material that is put into her. At the same time, you may go as high as two hundred thousand dollars.

Q.—What do you think such a ship as the Orizaba would be worth? [No answer.]

Mr. Barber—How long have you been out of the employ of the Pacific Mail Steamship Company?

A.—I sent my resignation to the Pacific Mail Steamship Company, I think, at the end of November, eighteen hundred and seventy-three—somewheres about the nineteenth of that month.

Q.—And you had some knowledge of the ships belonging to that line?

A.—That is, for one year previous that I was general superintendent—previous to that, superintending engineer. During the time I was superintending engineer I was not brought into position to know in regard to ships hulls—I was superintending engineer. That duty, of course, didn't call upon me to know as much in regard to hulls as I did when I came to be general superintendent. I was general superintendent for the company for one year, and, of course, in that space of time I could not have opportunity for knowing the full condition of the Pacific Mail Steamship Company's steamships, as far as the hulls are concerned.

Q.—You can't give us any opinion in what state the hulls of those ships were at the time you left the company?

A.—To the best of my knowledge, the company's ships, as a general thing, were in very good condition, sir. Of course, ships approaching the time requiring to have them caulked and coppered—then of course we don't consider that ship as good in that vicinity, in regard to speed and consumption of coal, and the like of that, as if she was newly caulked and coppered, etc.; and when those opportunities came in regard to caulking the ships, as far as I know, sir, they were always most carefully caulked. In everything pertaining to the ship under water, as well as the top-sides, etc., of course that would be done when she was out of water.

Mr. Pullen—That was during your superintendency?

A.—Yes, sir.

Mr. Barber—We had a witness testify here that he knows some of those ships to be rotten in certain places. Have you any knowledge of that?

A.—To talk about places in steamships, or any ships, sir—of course there is a large field there. I don't know of any ship, if you go to work to make minute examinations, you will find ships not over eighteen months old—but you will find sometimes, from defective timber or unsound timber, dry rot; and in repairing ships, more especially ships of some years run, you will always, as you go along, find some rotten timber; and it is not to be expected by practical, experienced men, not to find some small portions, less or more, in regard to rotten timber.

Q.—In your opinion, if any rotten timber is found in a ship, ought it to be taken out and replaced by good timber?

A.—Yes, sir; we often find—in making overhauls of a ship—we find rotten timber that we didn't expect to find. After we do find it we, as a general thing, take it out, except there has been times that it would be docked; but at the first opportunity it is taken out, sir. That is talking now practically and honestly.

Q.—That is to say, if you find a rotten plank, or portion of a rotten plank, in a ship about to leave, you wouldn't detain her, but you would take the chances?

A.—So far as there is no danger—that is to be brought to bear also. There is many places in a ship you will find rotten timbers that matters nothing at all, except not to let it go on for a long time, so as to contaminate the other timbers.

Here the committee take a recess till one o'clock and twenty-five minutes P. M.

AFTERNOON SESSION.

ROBERT R. SEARLE, called and sworn.

Mr. Pullen—What is your business?

Answer—Master mariner.

Q.—How long have you been master mariner?

A.—Eighteen years.

Q.—On steamships or sailing vessels?

A.—On steamships and sailing vessels.

Q.—How long have you been sailing out of the Port of San Francisco?

A.—Two years, about.

Q.—In the capacity of master mariner?

A.—Yes, sir.

Q.—What ship are you attached to now?

A.—The steamship *Montana*.

Q.—She is a mail ship?

A.—Yes, sir.

Q.—How long do you say you have been in the employ?

A.—Two years out of San Francisco; five years and a half in the service of the company, altogether—in the mail company's service.

Q.—Out of New York?

A.—Out of New York, Panama, and San Francisco.

Q.—Do you know anything in regard to whether there are any ships—steamships—to your own knowledge, sailing out of the Port of San Francisco or to the Port of San Francisco, that are not in good condition?

A.—I know very little about the steamships of San Francisco. The *Ancon*, I have commanded her; I know something about her.

Q.—What kind of ship is she?

A.—She was a good ship; ship that I would go to any part of the world in—the *Ancon*, now belonging to Goodall, Nelson & Perkins.

Q.—Do you consider a ship going to sea should be a ship capable of going to any part of the world?

A.—Well; yes, certainly.

Q.—You should?

A.—I should.

Q.—Are there any ships sailing out of the Port of San Francisco, that you would not like to take to any part of the world?

A.—I don't know any. As far as I am concerned those ships that I have to do with, I would go to any part of the world with them.

Q.—You don't know anything about any ships but your own?

A.—No, sir.

Q.—Did the *Ancon*, the *Orizaba*, *Senator*, *Pacific*, the *Gypsy*, and those ships, all belong to the Pacific Mail Steamship Company during the time you were in the *Ancon*?

A.—Yes, sir.

Q.—In their service, while she was their property?

A.—Yes, sir.

Q.—Did you have any of those ships besides the *Ancon*?

A.—Only the *Ancon*.

Q.—Have you any idea of what the company paid for those ships when they first bought them of Holladay?

A.—I have no idea.

Q.—Can you say what they got when they sold them?

A.—No, sir.

Q.—What ought a steamship of the tonnage of the *Pacific*, and the *Senator*, and the *Orizaba*, to be worth—the first cost?

A.—That is a point I am not prepared to answer.

Q.—Did you ever see any of those ships on the dock?

A.—Never have.

Q.—Do you know what they rate at in the insurance companies?

A.—I don't know, sir.

Q.—Can you assign any reason why there are so many disasters amongst our steamships sailing to and from the Port of San Francisco; more so, according to the number of ships sailing, than any other port in the world?

A.—I don't think there are.

Q.—Do you know of any reason, or any remedy that could be provided against this loss of ships?

A.—I do not. I think the ships are all well-manned and taken care of.

Q.—Did you ever sail in any coasting vessels?

A.—No, sir; I never have.

Q.—I mean the coast of California.

A.—No, sir.

Q.—You don't know then what duty the officers have to perform on those ships at different times?

A.—No, sir; I know nothing about their workings.

Q.—You don't know whether they are overworked or not?

A.—No, sir; I don't know anything at all about it.

Q.—You consider the *Montana* a first-class ship?

A.—I consider the *Montana* a good ship, sir.

Q.—You think then, to the best of your knowledge, that you know of no ship sailing to and from this port, that you would not be willing to go to sea in?

A.—None at all.

Q.—Yet you say every ship sailing to and from the port should be capable of doing that sort of work?

A.—Certainly.

Q.—Do you think the *William Taber* would be fit to go to China, in case the emergency should exist?

A.—I have never seen the *Taber*, to my knowledge.

Q.—You have seen the *Senator*?

A.—Yes, sir; I believe the *Senator* to be a good ship.

Mr. Bagge—Would you like to go with that vessel around Cape Horn?

A.—The *Senator*?

Q.—Yes, sir?

A.—Yes, sir.

Q.—Do you know anything about that vessel they call the *Mo-hongo*?

A.—The *Ancon*?

Q.—Yes. Do you know anything about that vessel?

A.—I don't know anything about her, only she is a good ship.

Q.—You think she is a good vessel?

A.—I am sure she is a good vessel.

Mr. Ostrom—That is the vessel you told us you commanded?

A.—Yes, sir; made several voyages from Panama to San Francisco with her; had some very valuable cargo on board—indigo, for

instance; on one occasion had eight thousand bales of indigo, worth a million and a quarter of dollars. I consider her to be a good ship.

Q.—You consider there is no steamer sailing out of this port carrying passengers, but what you consider capable to go to sea to any part of the world?

A.—I don't know of any. Of course, I am not much acquainted aside from the Pacific Mail Company. The Ancon, of course, I know about her.

Mr. Pullen—The John L. Stephens?

A.—I don't know anything about her.

Q.—The Idaho?

A.—I don't know anything about her.

Mr. Bagge—You only know about the steamers that go for the Pacific Mail Steamship Company?

A.—I only know about those. Of course the Ancon.

Mr. Pullen—You know only about the ships that you have sailed on?

A.—Yes, sir; that is all I can testify to.

Mr. Bagge—Are you the commander now of the Ancon?

A.—The Montana, at present.

Q.—You have been commander of the Ancon?

A.—Yes, sir; I made several voyages from Panama and—

Q.—You consider her a good ship?

A.—I consider her a good ship.

Mr. Pullen—What other ships of the mail line, besides the Montana and the Ancon, have you had command of?

A.—The Salvador, and Honduras, and Costa Rica.

Q.—Any other?

A.—Winchester.

Q.—Screw boats?

A.—Screw ships—iron screw ships.

Mr. Bagge—Have you ever noticed any soft spots in those vessels you have mentioned here?

A.—No, sir.

Mr. Pullen—Have you ever examined the hulls of those ships?

A.—Never, below water; but I have examined thoroughly inside those I have had any connection with.

Q.—You know nothing about what is below the water-line?

A.—No, sir; nothing about what is below the water-line.

Q.—How are your ships provided for saving life in case of accident?

A.—Well provided. The Montana has six boats of the largest class, and four others, making ten in all; one large life raft, which are ample to accommodate one thousand people—all metallic life-boats.

Q.—How much are they capable of carrying?

A.—A thousand people.

Q.—The boats and raft you say would take a thousand people?

A.—Yes, sir; according to the law in existence.

Q.—What is the average number of passengers carried on those ships?

A.—We seldom have over five hundred coming up. We have the largest number coming this way—crew and all. Scarcely ever reach five hundred, average three hundred.

Q.—What is considered an efficient lookout on a ship during the time of navigation from one port to another?

A.—The officer of the deck, and a man on the lookout; a quarter-master, and the officer of the deck.

Q.—That is two men.

A.—That is two men on the lookout.

Q.—The quarter-master they change off?

A.—The quarter-master they change, that is on the decks.

Q.—A vessel sailing on the coast, the officers being obliged to stay up to work from eighteen to twenty hours on a stretch discharging cargo, and taking in cargo. Do you think that it is proper to place him, after working him that length of time, in charge of a ship with another man?

A.—That is a point I can scarcely answer; of course I would prefer that the man was not worked so much—I would rather that he was fresher.

Q.—He would be very apt to doze over?

A.—Well, I don't know; he might, possibly.

J. C. BOGART, called and sworn.

Mr. Pullen—You are a master mariner, are you not?

Answer—Yes, sir.

Q.—How long have you been going to sea?

A.—Been going to sea about forty-eight years.

Q.—Did you ever command any in steamships out of the Port of San Francisco?

A.—Yes, sir. I have had charge of steamships thirty-one or thirty-two years.

Q.—Do you know anything in regard to the condition of the steamships sailing to and from the Port of San Francisco?

A.—Well, yes; to some extent. I know some of them.

Q.—Please state, if you know, their condition?

A.—I should consider they were very fair.

Q.—Very fair—take them all?

A.—Very fair, take them all as a whole—some better than others, as a matter of course.

Q.—You heard the statement of Captain Searle, as to the ships. He made the remark that he considered steamships, carrying passengers, ought to be capable of going to any part of the world?

A.—I don't think so. There is where he and I differ.

Q.—You do not think so?

A.—I do not think so.

Q.—What kind of weather do we usually have on the coast?

A.—Rough weather—some rough and some smooth—according to whether you are going to the north or the south.

Q.—Any difference between the Atlantic coast and this—going to Panama, or going to Chagres?

A.—I should think about the same going north as to go from New York to Chagres. I have been from New York to Chagres—spent a year on the route.

Q.—Do you know of any ships sailing out of the Port of San Francisco that you wouldn't be willing to go from New York to Chagres on?

A.—Plenty of them.

Q.—That you wouldn't be willing to go from here to Portland on?

A.—Plenty of them.

Q.—Steamships?

A.—Steamships; yes.

Q.—Please state some?

A.—I decline to answer that question. It is not my business.

Mr. Barber—You have been Captain of the William Taber?

A.—Yes, sir. I am not now.

Q.—Would you go to Portland, in the winter, on her?

A.—Yes, sir; in a moment.

Q.—In the Senator, would you go?

A.—Yes, sir.

Q.—In the Orizaba?

A.—Yes, sir.

Q.—John L. Stephens?

A.—No, sir.

Q.—Would you go in the Oriflamme?

A.—Yes, sir; that is, if her boilers is in good order. I would take good care to see that her boilers were in good order.

Q.—In the Los Angeles?

A.—Yes, sir. I know her to be a good ship.

Q.—In the Mohongo?

A.—Yes, sir.

Mr. Pullen—Would you go in the Newbern?

A.—Well, yes, sir; I would go in her if her boilers were in good order. I don't know anything about their boilers. It would be owing to whether the boilers were in good condition. I don't know anything about the hulls.

Mr. Barber—Won't you tell us the ones you wouldn't go in?

A.—No, sir.

Q.—You don't wish to be obliging to this committee, at all?

A.—No, sir; I don't propose to take the bread and butter out of my mouth. That is not my business, sir.

Mr. Perkins—The Salinas, plying to the Salinas River, would not be appropriate to go north?

A.—No, sir; there is lots of steamers that I wouldn't like to go north in, except to places where I could run into ports and hide away.

Mr. Bagge—The Stephens' people tell me she is a good summer steamer.

A.—I wouldn't like to go north in her in winter.

Q.—In the summer time she would do, but you don't consider her safe in stormy weather?

A.—No, sir.

Mr. Pullen—You mean to testify that if you gave the names of those steamers, it would do you an injury financially?

A.—Yes, sir; as I said before, it is not my business to go and hunt up rotten steamers, if there are any. If there is an application made to me to go in a rotten steamer, I can decline, can't I?

Q.—The United States Boiler Inspector has given a certificate that the John L. Stephens had been passed by him and the United States Inspector of Hulls. Do you know why he refused to give one to the William Taber?

A.—No; that is not my business, either.

Q.—You don't know?

A.—No, sir; it might have been prejudice, for all I know.

Q.—You think it was prejudice?

A.—I do.

Q.—You think there is a combination among the steamship companies to prevent the William Taber from getting a certificate?

A.—No, sir; I think it is prejudice on the part of the Inspector of Hulls.

Mr. Barber—You don't think Captain Waterman a square man to be Inspector of Hulls?

A.—No, sir; I don't say that. I don't like to have words put in my mouth.

Q.—You think the Taber a seaworthy ship, fit to go to any part of the world?

A.—I wouldn't hesitate to go to any part of the world in her in the condition she is now. I guess I am about as good a judge of steamboats as any man in the city. I have had command of steamships as long as any man in California to-day.

Mr. Barber—But you don't think you would like to run on the northern coast in the Stephens?

A.—No; I wouldn't like to go in winter.

Q.—What other steamers are there you wouldn't like to go in on the coast in the winter?

A.—The Salinas is one, and the Gypsy. She is too wet. She is safe enough, but too wet.

Mr. Pullen—How is the Ajax?

A.—I don't know anything about the Ajax. I have always heard her to be a good ship. To tell the truth, I never had my foot aboard the Ajax in my life.

Q.—Do you know anything about the Idaho?

A.—No, sir; all I know about her is hearsay. I have heard say the Idaho is a good ship. Ships that I have been on I am pretty well posted on.

Q.—During your experience as a Captain of vessels, or officer of vessels, were you ever out at sea on a ship in a gale of wind, sailing from the Port of San Francisco, where you didn't feel yourself safe?

A.—No; I wouldn't have gone. I have got too much money. I don't like to go where I think I may lose my life.

Mr. Barber—You stated you had a good deal of money, and didn't like to lose your life. Before, you said you would lose your bread and butter. I don't see how you reconcile those two statements. I don't see why you should refuse to answer the questions; it would make no difference to a man of your age.

A.—It would make a great deal of difference. Did you ever know a man to have enough money yet?

Mr. Pullen—Do you know whether Captain Waterman has held a survey of the Taber?

A.—Yes; he did about two months ago, at my request. I was Captain of the ship then. At my request he held a survey.

Q.—She has no certificate now?

A.—She has one now.

Q.—She has one?

A.—Yes; not granted by him, but granted by the Supervising Inspector. The Supervising Inspector granted her a certificate; yes, sir.

Q.—The Taber has had new boilers?

A.—Yes; a new boiler.

Q.—Then you are perfectly satisfied you have told the truth in

regard to the ships. You state before the committee that you are perfectly satisfied in your own mind that if you gave your knowledge of what you know about those ships, in some quarters it might injure you?

A.—I don't comprehend the question.

Q.—You stated a while ago that you didn't like to give the names of those ships that you thought were unseaworthy, and that if you did it would be financially an injury to you.

A.—That is not what I stated. I said that I was not obliged to accept a command on board a ship that was not seaworthy. The ship might be as good as the best of them.

Q.—Are there any other ships carrying passengers—steamships—out of San Francisco, that you wouldn't accept a command on?

A.—Yes, sir; plenty of them, as I said before.

Q.—Because you consider them unseaworthy?

A.—No; because I wouldn't like to risk my life in them. A man might say he wouldn't like to risk his life to go to sea, even if they were perfectly safe—he would rather take the railroad than to go to sea.

Mr. Ostrom—I understood you, in answer to a question by Mr. Pullen at the outset—I understood you to make a statement that there were plenty of steamships sailing out of this port that you would not like to go to sea with.

A.—That is, to take command of.

Q.—And you also refused to name them, from the fact that it would injure you?

A.—Exactly.

Q.—Is that correct?

A.—That is correct.

Mr. Pullen—You are perfectly satisfied that the Wm. Taber is really a good ship?

A.—I am, sir. I know more about her than any other ship, except the Senator. Probably I know as much about the Senator as the Wm. Taber, because I had command of her three or four years—three years and a half.

Q.—There was a ship running from the Port of San Francisco by the name of the Nevada. Did you ever command her?

A.—Yes, sir; I lost her. I had command of her when she was lost.

Q.—Who was Inspector of Hulls at that time?

A.—R. H. Waterman.

Q.—You considered her a safe ship?

A.—I considered her a perfectly safe ship for the business she was in.

Q.—Did she ever run north?

A.—Oh, yes. I never was in command of her when she ran north.

Q.—But she did run north, carrying passengers?

A.—Yes, sir.

Q.—You considered her a safe ship to go there?

A.—Not in the winter. She might have been then. She was almost a new ship.

Mr. Perkins—You have had forty-eight years' experience?

A.—Yes, sir.

Q.—During that time, you have had an opportunity of observing the shipping from the various ports in the United States and else-

where. Do you think the assertion made by Mr. Pullen true, that there is a greater number of disasters out of the Port of San Francisco than elsewhere?

A.—I should think less, sir. I have been here since eighteen hundred and fifty-one, and I should say less.

Q.—How do our ships compare on this coast, in point of equipments, with those fitted out and sailing from the Atlantic ports?

A.—Superior.

Q.—You are acquainted with several ships in our line—the Orizaba, Mohongo, Senator, Ancon, and Constantine. What is your opinion of those ships?

A.—The ships are good.

Q.—Would you have any hesitancy in accepting a command, or in sending your friends or property, in either of those ships, to any port where they are now engaged?

A.—Not a particle.

Q.—You consider them, in every respect, good sea-vessels?

A.—I do, sir.

A. CHRISTIE, called and sworn.

Mr. Barber—What is your business?

Answer—Caulker.

Q.—How long have you been in that business in San Francisco?

A.—About four years.

Q.—Did you ever work on any of the passenger-carrying ships out of the Port of San Francisco?

A.—I have.

Q.—State what ones?

A.—I have worked on the China, the Great Republic, the Constitution, the Dakota.

Q.—Will you state to this committee what you know about the soundness of those ships?

A.—Well, as far as I am concerned—as to soundness—if I were to go to work on board I could tell better.

Q.—In caulking, what condition did you find the planking in?

A.—The inside planking in several of those ships is gone.

Q.—The inside ceiling?

A.—The inside planking.

Q.—How have you found the outside planking?

A.—Well, pretty good. Some spots find a little decay.

Q.—You find the inside planking of most of those ships gone?

A.—More or less.

Q.—Decayed?

A.—Yes, sir; more or less.

Q.—In caulking those ships, when you find soft places in the planking, I suppose you acquaint your boss, do you not?

A.—Yes, sir; report to the boss, certainly.

Q.—And do they, at all times, take that rotten piece of plank out and renew with another piece?

A.—Sometimes they do, and sometimes they don't.

Q.—Just tell you to pass it over?

A.—They don't tell us to pass it over. They will say they will look after it—none of my business. We tell them we can't make such a place tight—report to that effect. They say they will look after it. It is none of our business whether they look after it or not.

Q.—And you do state the inner planking of those ships is rotten?
A.—Yes, sir; and I have seen it taken out of them. I couldn't say what I have not seen.

The Chairman—You say the wood you have seen taken out has been rotten?

A.—Yes.

Q.—Was there some rotten wood left in, too?

A.—That I can't say. I wasn't working carpenter work, to watch them very particularly.

Q.—It is only what you saw taken out?

A.—Only what I saw taken out; yes sir.

Mr. Roberts—What ship was it you saw this rotten wood taken out of?

A.—On the Dakota.

Q.—How long since you saw rotten wood taken out of the Dakota?

A.—About a year ago, or a little over.

Q.—Was she on the dock?

A.—She was on the dock.

Q.—Do you know whether her bottom was overhauled at that time?

A.—We caulked her bottom.

Q.—How did you find the outside planking on the bottom of the Dakota?

A.—I found it good.

Q.—The inside planking?

A.—She ain't double planked on the bottom—only single planked on the bottom.

Q.—Then where was this rotten plank taken out?

A.—The whole side of it.

Q.—Do you know whether the rotten plank were taken out and all replaced with good plank?

A.—That I could not swear.

Q.—Do you know that they took any of it out?

A.—Oh, yes, sir.

Q.—Then you don't know but what they took it all out?

A.—That I couldn't say, whether they took it all out or not. I wasn't paid for watching whether they took it out or not.

Q.—You were there in the capacity of journeyman caulker?

A.—Journeyman caulker.

Q.—If you find a rotten place, you report that to your boss?

A.—We are supposed to, if we can't make the place do. We are supposed to report to the boss, and they cut it out if they think proper.

Q.—The wood gives to the caulking?

A.—It gave—yes, sir; something has got to give.

Q.—Is there any other ships—you spoke of several ships that you had caulked on? Did you find any places of any extent? How large were the spots where the caulking would give in any of the ships? State particularly, and what ship the places were on?

A.—I actually now couldn't say. It is so long since I worked on any in particular. I worked on most the whole of them. I couldn't actually state the vessel's name; but most all of the wooden vessels—most the whole of them. They have all got a touch of it so far as I could see—they that was double planked—the inside planking—gone more or less.

Q.—Can you state any one particular place that you saw rotten plank that you reported to your boss, and that it was left in—pitched over?

A.—No; I couldn't say that ever I reported and it was left in. I don't say that, whether it was put in or not—that I can't say. I won't state that part.

Mr. Pullen—You don't know of your own knowledge whether it was put in or left out?

A.—No; I do not. I know there is always carpenters at work on those ships putting pieces in. As a general thing, if they came to put inside planking in, they will have to tear half the outside to get at them; that would cost too much money to repair them.

Q.—Did you see those ships when they were built up?

A.—No, sir—rebuilt?

Q.—Rebuilt.

A.—I worked on the Dakota at the time they rebuilt her.

Q.—In taking out the shield-planking to put in timbers, how do they usually put them in? Say, for instance, there are rotten timbers in the ship they want to take out and put in new in their places, how do they do it?

A.—They split it out.

Q.—How do they put the new ones in?

A.—Work them out first, and put them in and fasten.

Q.—They take off the shield-planking?

A.—They take that off.

Q.—And take the timbers, and shove them right down?

A.—Shove them right down.

Q.—How do they fasten them?

A.—Take treenails and bolts.

Q.—Do you think a ship built in that way would be as strong as before?

A.—I should judge if they put enough fastenings in to hold them. It would not do to take all the timbers in one place. That is my knowledge of it.

Q.—They generally scatter the timbers pretty well, don't they?

A.—On steamers?

Q.—Yes.

A.—In some steamers they are put pretty close; about six inches apart, I think.

Q.—What steamers, besides the Pacific Mail Steamship Company, have you been on?

A.—I worked on the Pacific. That is the only boat I worked on, to my knowledge.

Mr. Barber—How long since you worked on that ship?

A.—When the mail company owned her.

Q.—In what condition did you find the planking of the ship?

A.—I found her bottom good. I worked on her on the dock.

Q.—You worked on her below the water-line?

A.—No—not over the water-line.

Q.—You don't know anything about the condition of her top-sides at all?

A.—No, sir; I do not.

Mr. Pullen—In caulking, you are supposed to find out rotten places on the bottom, if there are any?

A.—Most likely to find out.

Q.—What do they do when they find out those spots?

A.—Mark them. Break off a thread of oakum in each side of a bad spot in the seam, and cut it out, probably.

Q.—The timbers of those ships, you say, you don't know anything about?

A.—No.

Q.—Do you know anything about the decks of those ships—the main decks?

A.—Yes, sir. I have worked on their decks, too.

Q.—What condition did you find them in?

A.—Some of them pretty bad.

Q.—Rotten?

A.—They were rotten enough.

Q.—Did they give them new decks?

A.—Partly.

Q.—Let the rest go?

A.—Let the rest go. The Dakota got a new deck—all taken out of her, as far as I could see.

Mr. Ostrom makes a motion to reconsider their action with reference to excluding testimony in relation to the Pacific. Mr. Roberts seconds the motion, and after some argument, the roll is called and the motion announced as carried.

Mr. Roberts—You have stated that you worked on the Pacific, I understood, as a caulker?

A.—I have.

Q.—How long since you worked on her, as a caulker?

A.—I don't recollect now, how long it is.

Q.—You do not recollect?

A.—I think it must be about two years ago—the time the mail company had her on the dock and repaired her.

Q.—Do you know the amount of the repairs done on the Pacific?

A.—We done a good lot of work on her timbers.

Q.—What new timbers, of your own knowledge, did she have?

A.—New frame-timbers—I believe I seen that, but anything else I never seen.

Q.—You saw what?

A.—New frame-timbers.

Q.—What do you mean by frame-timbers—new ribs?

A.—Yes, sir.

Q.—Was there any portion of her planking taken out—inside or out?

A.—There was inside—some outside, too.

Q.—Did you caulk the ship on the outside?

A.—No, sir.

Q.—Did you do any work beneath the deck of that ship, so that you saw the old planking before it was taken out, or the new, after it was put in?

A.—I never took any notice of it—never did.

Q.—Was there any work done on her deck—caulking?

A.—There was, but I didn't work on her deck.

Q.—What particular place did you caulk on that ship?

A.—On her bottom.

Q.—When she was on the dock?

A.—Yes, sir.

Q.—In what condition was the timber of the bottom of that ship—sound?

A.—That I could not say, anything about the timbers. The planking was well enough.

Q.—Was there any piece taken out at your suggestion?

A.—Not that I am aware of; there might be pieces taken out and I not know it.

Q.—Did you work above the water-line?

A.—I did not.

Q.—So far as your knowledge goes, was the bottom of the planking sound?

A.—Yes, sir; the bottom of the planking, so far as I worked on her, was sound enough.

Q.—How many other caulkers worked at the same time?

A.—About sixty caulkers at work on her.

Q.—At the same time?

A.—Yes, sir.

Mr. Perkins—From your general experience as a caulker, the impression you formed when you worked on the Pacific, was that she was a sound vessel—the bottom?

A.—The bottom.

Q.—And would compare favorably with other vessels sailing out of the port?

A.—I could not say.

Q.—Your business as a caulker would not require you to know particularly about the beams?

A.—No, sir; not my business.

Q.—You found where you worked in fair condition, and that would compare favorably with other vessels?

A.—Yes, sir; fair enough.

JOHN REED, called and sworn.

Mr. Barber—What is your business?

Answer—Ship caulking.

Q.—What steamships have you worked on?

A.—Well, I have worked on mostly all those steamships. I have worked on the Pacific, the Senator, China, Republic, Japan, and, in fact, others that I don't remember.

Q.—Will you state to the committee, for their information, how you found the plank of those ships when you were caulking?

A.—The outside planking of the China, or any other?—which ships?

Q.—Any of them. Begin with the Great Republic—begin on her first.

A.—Well, I found the Great Republic, some planking outside and even the inside planking gone, some of them, in spots.

Q.—You have worked on the Senator?

A.—Yes, sir.

Q.—How did you find the planking of that ship?

A.—I found the planking pretty good. The floor timbers as good as the day they went into her. I didn't see the top timbers.

Q.—You have seen her floor timbers?

A.—Yes, sir.

Q.—Found them solid?

A.—Yes, sir; as when they went in.

Q.—You have worked on the Pacific, also?

A.—On her top; not on the bottom.

Q.—State to the committee how you found the top of the Pacific?

A.—Well, not very good. Some places that I found wouldn't stand caulking. There was places in her where pieces were put in that wouldn't hold the fastenings. They had to put other pieces of timber in to hold them.

Q.—There was danger of taking the piece out, that ought to come out, because there was nothing inside to keep or hold the old piece in, and hold the fastenings of the old piece?

A.—Exactly so.

Q.—Any other ships you have worked on?

A.—On the China, the Constitution, Montana.

Q.—How did you find the China?

A.—She is like all the other double-planked ships—not very sound.

Q.—The inside planking so-so?

A.—The amount of it is, the outside planking is very good, but inside—on account of so much heat, it causes the inside to rot.

Q.—And the outside apparently good?

A.—Yes, sir; the outside generally good, until you come inside.

Q.—Did you find the Constitution the same way?

A.—Well, the Constitution is—I found part of her decks rotten, and in different spots. Of course, I was not working all over the ship. I could not tell what other men would find.

Q.—You found the Pacific in the worst state?

A.—Her top.

Q.—You found her in the worst condition of any of those ships you worked on?

A.—Yes, sir; that is, when the mail company had her.

Q.—She didn't receive any thorough repairing, that you are aware of, after she was transferred from the mail company to Goodall, Nelson & Perkins?

A.—Not that I am aware of.

Mr. Roberts—You spoke of the Pacific at the time you worked on her. How long ago was that?

A.—About two years ago.

Q.—Was she on the dock at that time?

A.—I didn't work on her on the dock. It was after she came off the dock I worked on her.

Q.—Now, do you know of any one particular spot on her that you can mention, where you were at work, where she was so rotten?

A.—Yes, sir; I worked forward.

Q.—How far forward?

A.—Well, about twenty feet from where the forward gangway comes in.

Mr. Barber—About half way between the stern and the forward gangway?

A.—Yes, sir.

Mr. Roberts—About midway between the forward gangway and the stern of the ship?

A.—Yes, sir.

Q.—How large a piece of planking did you find there that was rotten? or, how long a space was there that could not be taken out?

A.—I couldn't exactly tell, because if it was cut out you might find it all rotten.

Q.—Were you there in the capacity of carpenter, or caulker?

A.—A caulker, sir.

Q.—You took all the old oakum out before you put the new in?

A.—When you come to drive the old oakum back, and can't find anything to caulk, you have to let it go, and have a piece put in.

Q.—You discovered it when you were trying to drive the oakum into the joints—the seam?

A.—Yes, sir; I found that it would not stand it. I reported it, and, of course—

Q.—How do you determine the fact when it is rotten?

A.—Well, because it has a hollow sound, and it will bounce back or go through.

Q.—In this particular case did you drive the oakum through, or did it bounce back?

A.—Both.

Q.—Then, when you drive the oakum through, the caulking-iron goes through the seam—

A.—The oakum goes up or down, or through.

Q.—Have you any idea how large a space of that kind you found on the Pacific?

A.—I had a space of over two foot in my berth, where I had work.

Q.—How large a space about was the work?

A.—About twenty to twenty-five foot.

Q.—Then, you found spots over two foot?

A.—Yes, sir.

Q.—How large over?

A.—I couldn't tell; more or less.

Q.—Was that extending longitudinally on the ship, do you mean?

A.—Lengthways of the planking.

Q.—Then, about how large in depth—how big?

A.—In width?

Q.—Up and down the side of the ship?

A.—In spots; I could not exactly say. It would probably go between the timbers; may be along one space all the way up, and may not.

Q.—Did you find any place all the way up from the water-line?

A.—No, sir.

Q.—How large, deep, up and down the ship?

A.—It might be two foot on one seam; and then I might find it somewhere else. I don't remember now exactly what I did find.

Mr. Bagge—Two years since?

A.—That is when she was repairing; I think two years ago, or over.

Mr. Roberts—Has she ever been repaired since?

A.—Not to my knowledge.

Q.—Any planks or timbers put in that time?

A.—Yes, sir; new pieces and timbers put in to fasten to.

Q.—Is it customary, when you find rotten places—rotten wood—to put in new?

A.—It is supposed to be; we have nothing to say about that at all.

Q.—Can you state, when you found these soft places in the side of the Pacific, there was new pieces put in?

A.—I reported them as I found them.

Q.—Do you know whether any new pieces were put in?

A.—I don't know.

Q.—What do you state in regard to the question of custom? Is it customary, when you report that you have found a rotten plank in a ship, that that is taken out and a new one put in?

A.—It depends altogether in the length of the piece, and how rotten it is.

Mr. Ostrom.—The witness stated it was supposed to be taken out.

A.—Sometimes they are taken out, and sometimes—I don't know anything about them. Maybe, before I get through, I am taken off and put somewhere else.

Q.—It is a part of the duty to report those rotten places?

A.—Yes, sir.

Mr. Roberts.—Did you say you had caulked the Senator?

A.—Yes, sir.

Q.—What condition did you find the Senator in?

A.—I found her in very good condition.

Q.—Very sound?

A.—Yes.

Q.—Didn't find any rotten places on her?

A.—A very small piece. Some places the planking is worn quite thin. I believe I reported them, and they were taken out and fixed. I found her floor timbers as solid as the day they were put in her.

Q.—What other ships have you worked on?

A.—Montana, Constitution—

Q.—The Montana is running out of this port now?

A.—I believe, running to Panama.

Q.—What condition did you find her in?

A.—I found the outside pretty hard; but caulking inside the double planking can't tell anything about it—not before the ship is opened.

Q.—You say, as far as your knowledge goes, she was sound?

A.—On the outside.

Q.—She was on the dock at the time you worked on her?

A.—Yes, sir.

Q.—Was her bottom caulked at that time?

A.—Yes, sir; part of it on the Mare Island dock, at the time she sunk at Benicia—found the planking on her bottom very good. I believe it is oak.

Q.—That is the side-wheel ship Montana?

A.—Yes, sir.

Q.—What other steamers that are now plying out of this port have you worked on?

A.—All those I have mentioned.

Q.—Any others? I have only questioned you in regard to three—the Senator, Montana, and Pacific.

A.—I have worked on the China, Republic, and Japan.

Q.—What line is the Japan running in now?

A.—The Japan is lost, I believe.

Mr. Pullen.—If the rotten pieces in those ships had been taken out, and new put in, would you have been likely to have known it?

A.—Not at all times; for, in fact, I might be discharged from the job before these pieces were put in.

Q.—Would you in the case of the Pacific?

A.—In case of the Pacific?

Q.—Yes.

A.—Well, I might.

Q.—You might?

A.—Yes, sir.

Q.—Was the United States Inspector of Hulls there at the time you were overhauling the Pacific?

A.—I never seen him.

Q.—Never saw him?

A.—No, sir.

Mr. Bagge.—If he had been there, would you have seen him?

A.—I have seen him several times, but never seen him down around the ship.

Mr. Pullen.—Could he have been there inspecting the ship without your seeing him?

A.—He might; yes.

Q.—What is the usual way of inspecting those ships by the United States Inspectors?

A.—Some one comes down and looks at them and pronounces them good.

Mr. Barber.—That is, by merely looking at them?

A.—Yes, sir.

Mr. Roberts.—You say they come down and pronounce them good, by merely looking at them?

A.—Yes, sir.

Q.—How do you know?

A.—I would be around and see how they were, whether they needed caulking, etc.

Q.—Do you know when application is made to the Inspectors to inspect a ship? Are you cognizant of the time?

A.—No, sir.

Q.—Then you might be around any day in the year but one, and the inspection be made the day you were not there?

A.—I don't think very often.

Q.—You say sometimes they do. Can you mention any one time of their inspecting a ship, in the manner, I mean, you speak of—just looking at it?

A.—No, sir.

Q.—You cannot mention any one time. Can you mention any one ship that has been inspected in that manner?

A.—No, sir.

Q.—Then how do you know it is done?

A.—I know it is done, because I generally see them around, and go away again.

Q.—If you have seen them around and go away, why can't you mention the ship?

A.—Because I would have nothing to say about it.

Q.—It seems to me if you knew such things were going on, ships being inspected that way, you would have reported it.

A.—What good would it be for me to report that? I wouldn't be noticed.

Mr. Roberts.—We are here to get evidence about such things. If you can mention any particular time, or particular ship, it is evidence in this case; otherwise I have no use for such evidence.

Mr. Barber.—You have seen the Inspector come round and survey them?

A.—Yes, sir; I have seen them around the ship; yes, sir. It comes

to my memory now. I believe I was on one ship—the ship Neptune—that is the only one that ever Captain Waterman gave me any particulars about to caulk—what was to be caulked. The captain, I suppose, didn't wish to have it done, but I done what was generally needed.

Mr. Roberts—But the steamships—you have no recollection of any one particular ship, or any one particular time when you saw Captain Waterman inspecting a ship?

A.—No, sir.

Q.—Then you say that sometimes they merely come and look at a ship and report?

A.—From what I know they generally has, I am told, come around, but—

Mr. Perkins—How long did you say you had followed your trade as a caulker?

A.—I went to my trade in eighteen hundred and fifty-three.

Q.—During that time had you not frequently, in caulking or recaulking ships, found soft planks or timbers, while comparatively the ship was new, having been caused by being placed there while in the sap?

A.—Probably they will rot quicker than any other.

Q.—Those planks will get soft; but when those are removed and others put in their places, is that called good work?

A.—Yes, sir; certainly; if other planks are put in their place.

Q.—You stated about the Pacific; how long since was this?

A.—I can't tell exactly, but it is since she was on the dry dock, I think; not a year, I don't think—I meant the Senator—the Pacific, it is about two years, if not more.

Q.—She was then repairing by the Pacific Mail Company, wasn't she?

A.—Yes, sir.

Q.—Can you state of your own knowledge that the timbers that you referred to were not removed, and sound ones replaced?

A.—I could not say.

Q.—It is possible, then, that they were removed and sound ones replaced; that might have been done without your knowledge?

A.—Yes, sir.

Q.—A ship that is diagonally strapped, wouldn't that indicate that every effort had been exerted to make her a sound ship?

A.—Not if there was nothing to fasten the straps to.

Q.—Have you worked on the Pacific since she belonged to our company?

A.—No, sir.

Q.—Do you know what repairs have been done on the Pacific since we have owned her?

A.—No, sir.

Q.—Then you have no knowledge of what we have done to her since she has belonged to our company?

A.—No, sir.

THOMAS G. SULLIVAN, called and sworn.

Mr. Pullen—What is your business?

Answer—Caulker, sir.

Q.—How long have you been a caulker?

A.—About thirty years.

Q.—How long have you worked in San Francisco?

A.—About twenty-two years.

Q.—Did you ever caulk any steamships sailing backwards and forwards from San Francisco?

A.—Yes, sir.

Q.—What ones? Please name the ships you have been on.

A.—On the Stephens, for one. It is a long while ago. I went on the Constitution, for another. I went on the Colorado. I went on the Sacramento, Golden City, Pacific, and some more that is lost.

Q.—When did you work on the Pacific last?

A.—The last time I worked on the Pacific was for the mail company.

Q.—How long ago?

A.—About two years ago I helped to caulk her deck.

Q.—Did you have anything to do with the hull of the ship?

A.—Except caulking her deck—the lower deck.

Q.—In what condition did you find the deck at that time?

A.—The deck, good enough.

Q.—In what condition did you find the Constitution's deck?

A.—Well, I found her outside good—the outside planking. The inside planking I can't say. I don't know whether it is rotten or not. That was done about eight years ago. I believe, on the Pacific, we were knocked off there. I believe they put some new timbers in, such as knees. I believe they cut part of the frame out.

Q.—Was this during the time she was on the dock?

A.—Afloat alongside of the dock for the mail company.

Mr. Ostrom—You don't know anything since—you haven't worked on her since?

A.—Not worked on her since.

Mr. Roberts—Have you worked on any vessels now plying from this port, and to this port—steamships?

A.—I have worked on the Los Angeles about two years ago—I worked on her.

Q.—The Los Angeles?

A.—Yes, sir.

Q.—Two years ago?

A.—Yes, sir.

Q.—What part of her were you at work on?

A.—I worked caulking her outside.

Q.—Was she on the dock?

A.—I went around; they tried the bad plank—rotten plank—and we found some rotten planking, and they cut the wake of the bottom out of her and put in new, when I went on.

Q.—You were hunting rotten plank when you were on her?

A.—Yes, sir.

Q.—And found some?

A.—Yes, sir.

Q.—They were cut out?

A.—Yes, sir; and then put in new planking and new frame under the bottom.

Q.—Did you do any caulking on her?

A.—Yes, sir.

Q.—Then it was while you were caulking?

A.—I didn't caulk the new planking. I am talking about what I done when I was looking for bad plank—the foreman that was on

the work—we found some, and hauled her on the dock, and cut them out and put in new, because she was rotten in the bottom.

Mr. Pullen—You spoke about the John L. Stephens?

A.—I worked on the John L. Stephens eight years ago.

Q.—She was rotten?

A.—Yes, sir; and I guess she is pretty rotten now. If you want to find rotten wood, why don't you take carpenters and bore? and you will find plenty of rotten wood.

Q.—Do you know anything about the vessels sailing out of the Port of San Francisco?

A.—I don't know what condition they are in now.

Mr. Perkins—You testified that you found a plank on the Los Angeles that was not perfectly sound. You were sent there for that purpose, and if there was any, to report to Mr. Gates?

A.—I was on board with others.

Q.—And if any were found you were instructed to report to him?

A.—He was with me at the time.

Q.—Was every plank removed from her that was not sound?

A.—I don't know; but I know this portion that I have named was removed.

Q.—So far as you know, you consider her perfectly sound?

A.—There was a new frame and new bottom put in, and plank where it was rotten.

Q.—What is the general reputation of the work done under the supervision of Mr. Yates [Gates]?

A.—I always seen Mr. Gates done good work.

Q.—Does he permit men to slight his work?

A.—Not any that I worked under.

Q.—Mr. Pullen lays great stress upon the decks of a ship being caulked. Could not the decks of a ship not be caulked at all, and yet the ship be perfectly staunch and seaworthy?

A.—No, sir.

Q.—She couldn't be seaworthy unless the deck was caulked?

A.—In the first place, the deck would let the water through.

Q.—The cargo would be damaged?

A.—Yes, sir.

Q.—But the ship might be a seaworthy ship and yet the decks not be caulked?

A.—No, sir; I differ there.

ALEXANDER McDONALD, SWORN.

Mr. Perkins—What is your business?

Answer—Engineer.

Q.—How long have you been an engineer?

A.—Off and on since eighteen hundred and fifty-two.

Mr. Pullen—What class of certificate do you hold?

A.—First assistant of ocean steamers.

Q.—Were you on the Los Angeles on her last voyage to Victoria?

A.—Yes, sir.

Q.—Did you have any accident happen?

A.—Yes, sir; a slight accident. The crank of the rock-shaft.

Q.—What was the matter with that?

A.—Burst through the key of the rock-shaft. The crank of the rock-shaft burst through the key.

Q.—Do you know anything about its being defective before?

A.—No, sir.

Q.—Anything else burst?

A.—No, sir.

Q.—Nothing else?

A.—Not at that time.

Q.—What did you do when it bursted. Were you on the watch at that time?

A.—No, sir. The engine was stopped—the steam shut off.

Q.—What kind of engine have you got on board that ship?

A.—A compound.

Q.—Built in this city?

A.—Yes, sir.

Q.—Perfectly sound, is she?

A.—Yes, sir.

Q.—No flaws about her?

A.—None that I know of.

Q.—Not that you know of. If there was you would know it?

A.—Yes, sir.

Q.—Have you ever had anything done to the machinery since you have been on board that vessel?

A.—Yes; had a propeller put in once.

Q.—Anything done to the machinery inside—the cylinder, steam-chest, or anything?

A.—No, sir; not while I was on board.

Mr. Bagge—So far as to your knowledge, the machinery in that steamer was perfectly sound when you left here—everything, to your own knowledge, was perfectly sound?

A.—Yes, sir.

Q.—Have not observed any defect in it?

A.—Not in the least. Generally, when we work the engine alongside the dock, the engine has worked as perfectly as any time I have seen since I first came on board.

Mr. Pullen—Do you remember, when the accident happened, of a gentleman coming into the engine-room, and of your saying to him that the engine was defective when the ship left San Francisco?

A.—No, sir. In the first place, we didn't allow any stranger in the engine-room when anything was to be done.

Mr. Roberts—How long have you sailed in the ship Los Angeles?

A.—I believe I joined her the first trip she made to Victoria.

Q.—How many trips have you made in her?

A.—Some eight or ten trips.

Q.—Never had any accident, only on this one trip?

A.—Some slight accident. Lost the propeller once. It broke right in the key-way; that is a natural accident; and some other slight accident.

Q.—What other kind of accident?

A.—We had rough weather—not at the time of the accident, but before it; and it moderated down and was running pretty smooth—

Q.—That is, when you lost your propeller?

A.—Yes, sir.

Q.—What kind of weather were you having when you broke this crank?

A.—There was a southeaster blowing at the time—rough sea running, and pretty squally weather.

Q.—Did you repair your engine?
 A.—No, sir; we shrunk a strap on, but it did not hold.
 Q.—You say that you hold a first assistant engineer's certificate?
 A.—Yes, sir.
 Q.—You have charge of the engine of that ship?
 A.—No, sir; only when I am on the watch—the chief engineer has. When I am on the watch, and he is not there, of course I have.
 Mr. Perkins—Is it usual for passengers on the ship to come down into the engine-room and examine the machinery?
 A.—No, sir; it is not.
 Q.—During this passage from San Francisco to Victoria, and at the time the accident occurred, was there a gentleman by the name of Bergstrom, or any other gentleman, who was a passenger, who came down in your engine-room to examine the machinery?
 A.—Not to my knowledge.
 Q.—Would it be probable that such a person could come there without your knowledge?
 A.—If I should see him there, I would order him out at once.

JOHN HUTTON, called and sworn.

Mr. Roberts—What is your business?
 Answer—Chief engineer, sir.
 Q.—What steamer are you running?
 A.—Los Angeles.
 Q.—Were you on board the Los Angeles at the time of the accident which has been spoken of?
 A.—I was, sir, on the spot when it occurred.
 Q.—You were in charge of the engines at the time?
 A.—No, sir; the second assistant was in charge; but I was there on the spot.
 Q.—Did you know of any defect in the engine before you left here?
 A.—No, sir; I took no chances, if there had been any.
 Q.—How long have you been in charge of that engine?
 A.—Three months the last time; but as long a time before.
 Q.—Well acquainted with it?
 A.—Yes.
 Q.—And the working of it?
 A.—Yes, sir.
 Q.—Boilers and all?
 A.—Yes, sir.
 Mr. Ostrom—You consider that a first-class engine of its kind?
 A.—I do. Any competent man with the consent of our employers can look at it. It is first class. Other steamers break down besides the Los Angeles.
 Mr. Perkins—Are you, aside from being an engineer—are you also a machinist?
 A.—Yes, sir; I served seven years apprenticeship.
 Q.—Have you given the engines of the Los Angeles your particular attentions?
 A.—Yes, sir.
 Q.—Had there been any defect in them is it probable or possible it would have escaped your notice before leaving this port that last voyage?
 A.—Not to my knowledge.

Q.—Do you know or not that when the Los Angeles left this port on the last voyage, that her engines were in perfect condition?
 A.—Yes, sir.
 Q.—You feel assured they were in perfect condition?
 A.—Yes, sir.
 Q.—Is it your custom to permit strangers—passengers upon your ship or even strange officers—to visit your engine-room, and examine the machinery?
 A.—Never.
 Q.—In this particular case, when there was considerable confusion on the ship, is it probable that any person could have gained access to your engine-room, and proffered you his assistance or counsel?
 A.—I was never out of the engine-room from three o'clock, with the exception of going to my meals, and a few moments that I went up to the officers and asked them to get me a strap off the boom.
 Q.—Do you think it probable he visited your engine-room?
 A.—He was never down there at all, unless he got over the place where we hoist our ashes.

JAMES KING, called and sworn.

Mr. Pullen—You are an engineer, are you not?
 Answer—Yes, sir; for several years.
 Q.—How long?
 A.—Forty years, I suppose.
 Q.—Did you ever act as chief engineer for any steamships sailing out of this port—to and from this port?
 A.—Yes, sir.
 Q.—What ships were you on?
 A.—On the America, in eighteen hundred and fifty-four, that I came engineer in, from New York here.
 Q.—Have you ever been chief engineer of any ship since Captain Waterman has been Inspector of Hulls, or Mr. Beamish Local Inspector of Boilers, now Supervising Inspector?
 A.—Yes; I have been on several boats since Mr. Beamish has been Local Inspector, but the Hull Inspector and me never came in contact.
 Q.—Are you pretty well acquainted with the shipping of this port?
 A.—I arrived here the second day of July, eighteen hundred and fifty-one. I have been back two times during that time. With the exception of that time I have been here all that time—arrived the twenty-first of July, eighteen hundred and fifty-one, engineer of the steamer Pacific.
 Q.—Do you know of any steamship sailing out of San Francisco that you would not be willing to go chief engineer on?
 A.—I have been rather out of the trade for some six or eight or ten years, with the exception of going to New York to bring the Olympia out for George Wright. I got disgusted with the business, and quit it.
 Q.—Do you know of any ship that you would not be willing to go to sea in, and take your chances on?
 A.—In going to sea, I done the same as others; I took my chances for the sake of getting employment. I have taken greater chances than any man. In eighteen hundred and sixty-three I shipped as engineer of the John Wright, from here to —; a boat that ran to Sacramento. I have been out of it, and I have not got the run of the vessels.

Q.—Suppose now, from your knowledge of shipping, generally, that you were going to sea for a living, are there any ships—steamships—that you would be unwilling to go on for safety?

A.—Well, there is one ship here that I wouldn't go outside of the heads in.

Q.—Do you know of any more than one?

A.—I can't say that I do—this one in particular—because I have known her so long.

Q.—What is the name of that ship, sir?

A.—The John L. Stephens.

Q.—Do you know the condition of the boilers on board those vessels?

A.—I was on board the John L. Stephens, superintending the overhauling of her boilers some nine years ago. I think she has the same boilers in now that she had when she was first built. I think so—a big portion of them.

Q.—Do you know of any other ships?

A.—No, sir; I have not been in the trade, as I told you, some ten years; got disgusted at it.

Q.—Did you ever know anything about the Pacific?

A.—Yes, sir; I was launched in her either July or August, eighteen hundred and fifty, I can't say which; either July or August, eighteen hundred and fifty. I was employed on board her.

Q.—Do you know anything about her machinery?

A.—Yes, sir; about the best engine ever come in the heads.

Q.—Do you know anything about the condition of her machinery the last two years—the last year?

A.—If you get a good engine, and it is not abused, it will remain a good engine as long as the vessel will float.

Q.—I ask you if you know anything about it?

A.—I used to go on board and look at it. It looked fair to me.

Q.—You don't know of any ship sailing out of San Francisco—steamship sailing out of the Port of San Francisco—that you would be unwilling to go to sea in, except the John L. Stephens?

A.—I cannot say that I do.

Mr. Roberts—You say you wouldn't go outside of the heads on the Stephens—why?

A.—I don't think she is worthy of carrying my carcass.

Q.—You mean to say the vessel is rotten?

A.—Well, I do; and I say it, I think, knowingly.

Q.—How long since you examined her, or since you have been familiarly acquainted with her?

A.—I was employed on board of her overhauling her boilers and engine some nine or ten years ago, and then she was what I call mellow; but no ship gets to her age but has some timbers more or less soft in her—timbers that become doughy.

Q.—You stated that you were engaged on board her some nine years ago examining the machinery.

A.—Overhauling her engine and boilers.

Q.—Was she given a general overhauling that time—the hull, deck, and all?

A.—She was anchored off Benicia. I went up on board of her, but she was taken around to the navy yard dry dock, and taken on there. Mr. Owens superintended the overhauling of her bottom.

She was stripped and recoppered at that time, and under water the bottom was good enough.

Q.—At that time?

A.—Yes, sir.

Q.—Have you any knowledge whether she has been repaired since?

A.—I don't know.

Q.—You say she was “mellow?” What part was mellow at that time?

A.—I think all above what we call the futtocks.

Q.—What is that?

A.—The turn of the floor timbers. We carry more or less salt water in our vessels, and that preserves the timbers, I think.

Mr. Pullen—You think, then, the bilge water preserves the wood?

A.—I think it is the salt in the water.

Mr. Roberts—Since that time you have no knowledge of her being overhauled and repaired?

A.—No, sir.

Q.—Don't you know that she has been?

A.—No, sir.

Q.—Do you know any thing about the manner of procuring certificates in this harbor for vessels that are considered rotten by you seamen?

A.—We may surmise a good deal—surmise—but not to my own knowledge. Allow me to express my opinion. I know steamships—

Mr. Ostrom—That is just what we want.

A.—My opinion is this: if we had two proper men as Inspectors of Hulls, Engines, Boilers, and they done there duty, according to their oath of office, you gentlemen would have no occasion to meet here to-day.

Q.—In regard to Captain Waterman—do you consider him a good and efficient officer for the position he occupies?

A.—I think, sir, that it is one man's business to build a ship, and one man's business to sail a ship. I don't think a captain of a ship has any more idea of overhauling a ship than I have, and I am not any ship-carpenter. Nobody but a ship-carpenter, in my opinion, is capable of inspecting a ship and saying what is necessary to be done to the same.

Q.—But that is not answering my question. I shall not press it. My question is this: Does this gentleman, Captain Waterman, have the name, among seafaring men, of being an efficient officer in his position, strictly attending to his business and duties? You can answer, if you please, or not—just as you see fit.

A.—As he don't belong to my department, I don't think proper to answer the question, because I could not substantiate it. I am not going to mention what the rumors are among the people.

Mr. Barber—Do you think that Captain Waterman is a qualified man to command a ship to take to any part of the world?

A.—He has proved himself.

Q.—Do you further think he is a qualified man to be a judge of the timber in a ship?

A.—I do not, because he has never been a hewer of timber.

Mr. Pullen—Do you know the reason of the refusing certificates to the Taber, while the John L. Stephens, which you say you wouldn't go out of the heads on, has one?

A.—You will have to draw your own inference as I have drawn mine, but don't think proper to express it here. I am not a stockholder in the Taber, or any other steamship; therefore, I can't say that I am authorized to either condemn or advocate her—except the John L. Stephens—everybody knows she has gone in long ago.

Q.—She is not running now?

A.—She is running in the summer season. Although, as frail as she may be, she will run a long time if she does not strike anything harder than she is.

GEORGE WISE, called and sworn.

Mr. Pullen—What is your business?

Answer—Ship-caulker.

Q.—How long have you been following that business?

A.—About twenty-five years.

Q.—How long have you been in the City of San Francisco following the business?

A.—A little over eight years.

Q.—Did you ever work on any of those steamships—ocean steamships—sailing out of this port?

A.—Yes, sir; worked on many of them.

Q.—What ones have you worked on?

A.—I have worked on most of the mail company's boats.

Q.—Name some of the ships?

A.—I worked on the Constitution, Colorado, Japan, China, Montana.

Q.—How long since you worked on those ships?

A.—Well, I suppose about three years ago, or so.

Q.—Worked on any since, later than three years ago?

A.—Yes, sir; I suppose I have worked on some—no, I don't know as I have—not later than three years ago.

Q.—Did you ever work on the Pacific?

A.—No, sir; not that I know of; don't remember of working on her.

Q.—Do you know of any ships—steamships—sailing to and from the Port of San Francisco, that you would not consider seaworthy, of your own knowledge?

A.—I guess there is plenty of them I would not consider seaworthy.

Q.—Steamships, I mean.

A.—All about the same; not much difference in them. A steamship, when she gets to be a few years old—they all get rotten, fore and aft.

Q.—Don't they generally repair them?

A.—They do at times, when they get very bad.

Q.—You say you know of some you do not consider seaworthy. Can you name any?

A.—Well, I didn't say not seaworthy, but I wouldn't care about going to sea in them.

Q.—What ones are they you wouldn't care to go to sea in?

A.—The John L. Stephens and Montana.

Q.—Side-wheel or propeller?

A.—The side-wheel Montana.

Q.—You have worked on that ship, have you?

A.—Yes, sir.

Q.—Did you ever work on her bottom?

A.—I did.

Q.—In what condition did you find her bottom?

A.—Bottom good. The bottom of almost every vessel is good.

Q.—Did you ever work above the water line?

A.—Yes, sir; I worked on her top.

Q.—In what condition did you find her?

A.—Pretty soft, sir; take lots of oakum.

Q.—Whereabouts did you find her soft—what part of the ship, forward or aft?

A.—Amidships—about amidships—forward the wheel.

Q.—Were those rotten places you discovered repaired?

A.—I don't know whether they were rotten or not. They were soft. I didn't examine them. They might be square seams. They might be rotten back. They took lots of oakum.

Q.—When you meet a seam that takes an unusual amount of oakum, what do you generally consider the cause of it?

A.—If I find a very bad spot, they would cut it out. If the seams generally are all over bad, they let them go.

Q.—So, you wouldn't care to go to sea on the Montana?

A.—No, I wouldn't.

Q.—In your estimation as a ship-caulker, you don't think she is seaworthy?

A.—I wouldn't care to go in her, whether she is seaworthy or not.

Q.—Do you know of any other ship besides the Montana and the John L. Stephens?

A.—No; I don't know.

Q.—Did you ever work on the Orizaba?

A.—No, sir; I don't think I did. I think I work on her—stripped her one time on the bottom—the copper. She belonged to the Hollanday company then.

Q.—Did you ever work on the Colorado?

A.—Yes, sir.

Q.—How did you find her?

A.—Well, she is about the same as the rest. Better than the Montana—the seams better. The planking seems pretty good on the outside.

Q.—Do you know of your own knowledge whether the Montana has been repaired since you worked on her last?

A.—She has, sir; repaired up to Benicia.

Q.—How long since?

A.—Well, I could not tell you—somewhere about a year or two ago.

Q.—Since you worked on her?

A.—Since I worked on her.

Q.—You don't know the present condition of the ship?

A.—No, not now.

Q.—Still, not knowing the present condition of the ship, you wouldn't like to go to sea on her?

A.—No.

The Chairman—The amount of it is, you don't know anything about the Montana at all, and are naturally prejudiced?

A.—No prejudice in the world.

Q.—You say you don't know anything about her?

A.—I say I wouldn't like to go to sea in her—her seams are large and kind of open, and she can never be made tight.

Q.—You say she has been repaired since?

A.—I don't know what she is now.

Mr. Perkins—Mr. Sullivan stated, in his opinion, a ship could not be seaworthy unless her decks were caulked. Are you of that opinion?

A.—Certainly. The decks would have to be caulked—and caulked well.

Q.—Might her decks be not caulked and still she be seaworthy? If history records correctly, Columbus discovered America in a vessel that had no deck at all. I ask for information, if such a thing is possible—that a ship be seaworthy and her decks not caulked at all?

A.—I don't think she would be safe—

Mr. Pullen—Do you know anything about the Peking?

A.—No, sir; I don't know anything about her.

Q.—Do you know anything about her decks?

A.—I wouldn't consider her decks thick enough for a steamboat. They are thin—only two and three-fourths inches.

Q.—You have stated in regard to the John L. Stephens. How did you arrive at your knowledge of the unseaworthiness of the John L. Stephens?

A.—Oh! well, I don't know.

Q.—From hearsay, or your own personal knowledge?

A.—I have worked on her.

Q.—How long since?

A.—I suppose it is three or four years ago—at the time they put a new deck on her, and when they stripped her, and repaired her.

Q.—They have repaired her since?

A.—Yes. They put some timbers inside, strengtheners, and a new deck, when I worked on her.

Q.—The defects you found they have repaired, have they not?

A.—I suppose they have done it pretty much, but there was plenty of bad places left they didn't.

ELIJAH LORD, called and sworn.

Mr. Pullen—What is your business?

Answer—Ship carpenter.

Q.—How long have you followed that business?

A.—About thirty years.

Q.—Are you a master ship-builder, or journeyman?

A.—No, sir.

Q.—Journeyman?

A.—Journeyman.

Q.—How long have you been working at that trade in San Francisco?

A.—About sixteen years.

Q.—Are you acquainted with the condition of the ocean steamers sailing to and from this port?

A.—Well, I could not say that I was enough to give a definite answer.

Q.—Did you ever work on any one?

A.—Yes, sir; I have worked on the whole of them. I don't think an ocean steamer goes out that I have not worked on, with the exception, probably, of one or two. There might be one or two.

Q.—You have worked on all the wooden ships that belong to the Pacific Mail Steamship Company?

A.—Yes, sir; I think, all. I don't know of one exception.

Q.—How lately since you have worked on one?

A.—The last, a year ago. The Dakota, I worked on her.

Q.—Did you work any on any ships previous to that?

A.—Yes, sir; the Constitution, Colorado, Sacramento, and the Orizaba, Pacific, Senator—I worked on all of them more or less.

Q.—Did you work on the Pacific when she was overhauled by the Pacific Mail Steamship Company, about two years ago?

A.—No, sir.

Q.—Did you work on her previous to that?

A.—Yes, sir.

Q.—How long ago since you worked on the Pacific?

A.—Well, it is—I think it is two years ago—somewhere about two years ago last summer, when she was overhauled. I did work at the last of it, a couple of days, to repair a piece of her guard.

Q.—What was the general opinion of ship carpenters in regard to the steamship Pacific?

A.—Well, I think it is not very good.

Q.—Not good?

A.—No, sir; that is the opinion of ship carpenters. Of my own knowledge I don't know, because I have not worked on the Pacific since.

Q.—How long since you worked on the Pacific?

A.—A little over two years ago, before she was repaired at the mail dock.

Mr. Barber—Did you see any of her frame at that time?

A.—Yes, sir.

Q.—How did her frame look at that time?

A.—Some of it was not good. We had to do considerable patching. What overhauling she had, I can't say.

Mr. Ostrom—That was about two years ago.

A.—Yes, sir; a little over two years, I think.

Mr. Pullen—Do you know whether she has been overhauled since then?

A.—No, sir; I have never worked on her.

Q.—Do you know that any repairs have been given to her?

A.—I don't know whether there has or not.

Q.—If there had been, would you have known it?

A.—There might have been and I not known it.

Q.—What condition was the Constitution in?

A.—The Constitution—I worked on the Constitution at Benicia, the time we planked her outside. She was made a good boat then, but that was some seven or eight years ago, and I have done some little repairing about the deck. When any little thing would go wrong, on coming in from a voyage, we would be put to work on her.

Mr. Barber—Did you ever work on the Salvador?

A.—No, sir.

Q.—Did you ever work on the Costa Rica?

A.—No, sir.

Q.—Ever work on the Senator?

A.—Yes, sir.

Q.—Ever see any of the frame of the Senator?

A.—I did, at that time.

Q.—How long ago was that?

A.—That was when the mail company owned her. I think that was the summer before last.

Q.—How did you find the frame of the Senator at that time?

A.—The frame was good. I would call her a good fair ship. I saw nothing particularly wrong about her, but age.

Mr. Pullen—Oak frame?

A.—Yes, sir; I think the Senator has an oak frame.

Mr. Barber—Did you ever work on the Orizaba?

A.—Yes, sir; I helped to retop her.

Q.—Many years ago?

A.—No, sir. When she was rebuilt she was turned over then to the Holladay line, down at ——— wharf, some seven or eight years ago. Then I helped rebuild her, and I have only worked on her at the mail dock a day or two—two days.

Q.—You have had no opportunity since to see her frame—since that time?

A.—No; but then she was put in good repair.

Q.—In the topping of ships, how do you generally do?

A.—Where the frame is rotten we put in new timbers—take out the old and put in new.

Q.—Shove them right down?

A.—Sometimes. It is according to whether we give a small repair or a large one.

Q.—Do you know anything about the steamship Montana, belonging to the Pacific Mail Steamship Company?

A.—No, sir; not lately. I helped—I worked on the Montana—not the last time.

Q.—You heard the last witness?

A.—I can't say that I agreed with him on the Montana. I would go to sea in her. He feels justified in what he says.

Q.—Do you know any vessels that you would not go to sea on—steamships—at present?

A.—There is vessels goes out of this port that I would be very delicate about going in.

Mr. Ostrom—Do you know anything of the Coquille, or the Pelican?

A.—Yes, sir; I know the Coquille.

Q.—Do you consider those proper vessels to go out to sea?

A.—It is my opinion the Coquille is not. That don't make it so—but my opinion is, she is not.

Q.—About how old a vessel is the Coquille?

A.—The Coquille is not very old. She was repaired and patched up, and built upon. At first they had built the hull very thin—the planking two inches, I think, and the ceiling about an inch and a half. They left it so for a while, and then gave what is called a big repair—put a new top—and it is worse than it was before, because it makes her top-heavy.

Q.—You don't know anything about the Pelican?

A.—No, sir; she is an iron boat.

Q.—Have you ever been to work on any of those ships holding a certificate, when a survey was made?

A.—Yes, sir; when Captain Waterman held a survey on them first.

Q.—What routine did he go through?

A.—A routine that I would not approve of.

Q.—I suppose they never got through without surveying the cabin?

A.—I suppose not.

Mr. Roberts—State the routine?

A.—You know when I am giving evidence now, it is injuring me personally—on this case, it is injuring me personally. I will tell you what he does—what I know him to do on the Coquille. It was a neglect of duty, and you will find it so. He came down—we put in some ceiling, five inches thick and seven inches wide, some seven tiers of ceiling, and we spiked it from the inside—bolted it on. He came down and he ordered five knees on a side to run from the large knees—they was to run from the kelson out across a couple of bilge kelsons—and he ordered five on a side to be put in. He went away. Then knees were brought down—ten brought down—and they was never put in; and the vessel went away without them. He expects they are in to-day. It is a neglect of duty. They were not in when she went to sea that voyage—that was, last voyage—just before the storm commenced. He ordered them in, and went away. I worked at it until the hour she sailed, and they were not put in then.

Q.—Is the Coquille still in the trade—still running?

A.—Yes, sir; I believe she is.

Q.—Do you know whether Captain Waterman knows that those knees were not put in?

A.—I don't know. I know they were not put in when I left.

Q.—They didn't come to inquire whether they were in or not?

A.—I don't know; but they were not in. I heard him give the order to put them in. It is a neglect of duty.

Mr. Pullen—Do you think Captain Waterman is a competent man to fill the position of Inspector of Hulls?

A.—I do not think he is, in my opinion. I think the man is not well enough acquainted with ship-carpenter work. That is my opinion.

Q.—You think building up on a ship injures it—in, for instance, raising the ship up one deck?

A.—I think it makes them top-heavy. It don't hurt them if you make them strong enough where the two come together.

Q.—Did you ever see, in examining those ships—in working on them—any rotten timbers in them that were left in and not taken out at the time of repairing?

A.—Sometimes I have—that is, sometimes they go through a small repair. Something happens, and the ship wants to go to sea, and they go to work—five or six men—and do the job in a hurry, and don't make a general repair.

J. W. TALBOT, called and sworn.

Question—What is your business?

Answer—A ship-caulker.

Q.—Did you ever work on any of those steamships?

A.—Yes, sir; have worked on the mail line.

Q.—Are you employed by that company?

A.—I was at times.

Q.—What were you?

A.—A ship-caulker.

Q.—Journeyman work?

A.—Journeyman work.

Q.—What ship did you work on?
 A.—I have worked on all their ships they have on the line; all the wooden ships—some iron.
 Q.—What is the general condition of those ships?
 A.—What one?
 Q.—Any of them?
 A.—I have worked on the Montana the last time she was repaired at Benicia.
 Q.—What condition was she in?
 A.—They gave her a very light repair up there. They patched her—caulked some of the butts. She wanted caulking all over.
 Q.—Did you find any rotten plank?
 A.—Not in her bottom.
 Q.—Any in the tops?
 A.—Yes; a good deal.
 Q.—How long since you worked on the Montana?
 A.—The last time she was repaired in Benicia; I think about two year.
 Q.—Two years ago?
 A.—Yes, sir.
 Q.—Has she ever been overhauled since then?
 A.—No, sir.
 Q.—Never has—nothing done to her?
 A.—No, sir.
 Q.—Whereabouts did you find those soft places you speak of?
 A.—About amidships, about the wheel. I worked on the wheel, where we cut out some rotten part.
 Q.—Was it all cut out then?
 A.—No, sir.
 Q.—Did the Inspector of Hulls know this?
 A.—He did.
 Q.—Did Captain Waterman hold a survey on that ship?
 A.—Yes, sir; he did.
 Q.—You mean to say he would pass over those places without having them cut out?
 A.—Well, patched up; places where they ought to have been cut out—cut out till they got sound enough to caulk on. They was not sound enough to caulk. They patched them—puttied them up.
 Q.—Is that the general way of overhauling vessels?
 A.—That is the way this last three or four years they have been doing down there.
 Q.—Did you ever work on Goodall, Nelson & Perkins' ships?
 A.—Have worked on the Pacific.
 Mr. Barber—How long since you worked on the Pacific?
 A.—Two years.
 Q.—Did you see any of the frame of that ship at that time?
 A.—No, sir.
 Q.—What did you do on the Pacific at that time?
 A.—She was caulked, top and deck.
 Q.—What state did you find the planking of the Pacific in, in caulking?
 A.—Pretty tender.
 Q.—In spots, or all over—a general tenderness all over?
 A.—No; not a general thing. You might run a course, may be three or four feet, that would be soft—give way—that you could not

stop. All them ships have double planking, and the inside planking is entirely gone. The ship China is the same way. Captain Waterman opened her not long ago.
 Q.—Did you find the Pacific any worse than any of these other ships—the China, the Japan, or the others?
 A.—No; I could not say.
 Q.—She would pass muster with the balance?
 A.—Yes, sir.
 Q.—You think the rest as bad as the Pacific was?
 A.—I think the China is about as the Pacific was. I noticed that a sail hung over a big patch when they opened her.
 Q.—What ship was that?
 A.—The ship China.
 Q.—You didn't see any of the frame of the Pacific or the China this time?
 A.—I know nothing but the inside ceiling—the inside planking.
 Q.—Do you caulk the inside planking?
 A.—Yes, sir; generally caulk before the outside goes on.
 Q.—What was the condition of the inside planking of the China?
 A.—Very bad.
 Q.—And they didn't take it out?
 A.—No.
 Q.—Passed it over?
 A.—All along amidships—this was pretty well forward—about thirty feet from the stern that they opened and found it rotten inside, and closed it up again. They had it under a sail for a day or two, and then closed it up.
 Q.—Under a sail to keep it out of sight?
 A.—To keep it out of sight.
 Q.—The China, that was?
 A.—Yes, sir.
 Mr. Ostrom—I understand you to say those ships here are equally as rotten as the Pacific was?
 A.—Yes, sir.
 Mr. Roberts—Do you know where the China is now plying?
 A.—I believe she is running to Panama. She is on a trip somewhere—I don't know where.
 Q.—Were you present when Captain Waterman opened the ship China?
 A.—No, sir; I was not present.
 Q.—Were you present while the opening was left open—the opening that he had made?
 A.—Yes, sir; I have seen it over four different times.
 Q.—Did you examine the timber of this opening?
 A.—Yes, sir.
 Q.—Were you examining it then as a ship-caulker?
 A.—Yes, sir.
 Q.—For the purpose of working on her—were you working on her at the time?
 A.—No, sir.
 Q.—Did you caulk on her at that time?
 A.—No, sir; they done not a thing. I believe an apprentice caulked the piece that was put in.
 Q.—When they filled the hole up?
 A.—Put a small piece in.

Q.—How large a hole did they cut?
 A.—About six feet forward, and a little piece about ten feet forward the wheel.
 Q.—Six feet longitudinally?
 A.—Just one plank.
 Q.—And took out six foot of it?
 A.—And forward the wheel about four feet.
 Q.—Did you examine both holes?
 A.—Yes, sir; I took particular notice of it.
 Q.—Was the timber rotten—the planking rotten at both of these holes?

A.—Yes, sir.
 Q.—How long ago was that?
 A.—Last summer.
 Q.—There was no repairing done on that ship at that time, that you know of?
 A.—Well, there might be a little repairing on the decks, but no great amount of repairing.
 Q.—Nothing you would call a thorough repairing?
 A.—A little patching done; that is about all.
 Q.—Did you examine the deck of the China?
 A.—Yes, sir; I was on board her at the time.
 Q.—You examined it, you say?
 A.—I looked at it as I went along. The oakum was all out of the seams.

Q.—Do you know whether that deck was sound or not?
 A.—I guess the deck is sound outside the houses. Inside the houses it ain't. I can go and dig out deck-plank with my fingers.

Q.—On the China?
 A.—Yes, sir; for I know spots where I can go and do it.
 Q.—Whereabouts on that vessel can you pull the plank out with your fingers—out of the deck?
 A.—Right above the engine—forward the engine, in the stevedore's room I was in; the cook's room, forward the engine. On the main deck, I mean. I can go and pick out the Republic and China, and take it out with my hand.

Mr. Searle—When the oakum remains in the ship, that indicates she is strong or weak?

A.—The oakum of the China is pretty much out of the deck.
 Q.—Is she strong or weak when—
 A.—It indicates that she don't work any at the time.
 Q.—Where the water is swashing up?
 A.—I have caulked seams where the water could swash right up out of the seams.

Mr. Pullen—Whereabouts on the main deck did you find this?
 A.—Right above the engine or the boiler, I believe, on the main deck. There is a partition of bunks, for the entire state-rooms, on the main deck. They repaired the Republic the same way.

Q.—Do you say there are any rotten timbers in the Republic?
 A.—No, sir; not timbers; the inside.

Q.—The lining?
 A.—All gone—the inside lining, and part of the out.
 Q.—Part of the outside?
 A.—Yes, sir.

Q.—How are those planks on the outside; as a general thing, don't they look sound?

A.—There is generally a skin on the outside, and when you work through that, it is rotten. You can take your hands and gouge it right out. After you break through the skin of paint, you can dig it right out. The Coquille, I worked on her. I helped caulk her. I see Mr. Lloyd working about her. I helped caulk her bottom when she was repaired over to North's ways there.

Mr. Ostrom—Who are the owners of the Coquille?

A.—I don't know who the owners were then. I could not tell you; but I caulked seams on her that wasn't over a half inch thick forwards. Her plank was only two-inch.

Q.—She runs to Humboldt Bay?

A.—I know the captain of her.

Mr. Barber—You say the plank on her bottom was only two inches?

A.—Yes, sir; and some of it only a very little half inch forwards, where worn.

Q.—Formerly a river boat, running to Stockton?

A.—Yes.

The Chairman—Are you an employé of the Pacific Mail Steamship Company now?

A.—No, sir.

Q.—How long since you have been out of their employ?

A.—It is about three months.

Q.—Don't work for them any more?

A.—We had a strike there. That is the reason we don't work there—on account of not paying us five dollars a day.

Q.—You have got on a strike?

A.—Not exactly a strike. They have men working.

Q.—Has that any reference to your willingness to come here to testify?

A.—Not at all; I have made my living off that dock ever since I came to this country.

Mr. Pullen—No prejudice, whatever?

A.—No, sir; I have not the least.

A. P. WILSON, called and sworn.

Question—What is your business?

Answer—I am a shipwright.

Q.—How long have you been following that business in this city?

A.—Thirty-five years.

Q.—In this city?

A.—No, sir; this last time been back here. I have been back this last time seven years.

Q.—Did you ever work upon any of those steamships?

A.—Yes, sir.

Q.—What ones did you work on?

A.—The China and Japan.

Q.—Did you work on any other?

A.—The Ventura, that is now lost, when she was new topped.

Q.—How long since you worked on the China and Japan?

A.—Some three or four years; perhaps a little over three years. Can't tell the date exactly.

Q.—How long since you worked on the Ventura?

A.—I don't exactly remember the date they retopped her. She

was purchased from the Government, I think, about three years since. She has been retopped. She was raised up. She was formerly the Resaca. I worked on her when she was a Government vessel also.

Q.—In what condition did you find those ships when you worked on them?

A.—The China and Japan, so far as I worked on the wheels, they were in very good order. They were caulking her—there is always spots in a vessel three or four years old that the oakum will slump—where the horse-iron will go up. Perhaps they have worked, and the oakum ground out, sometimes. In the Japan particularly, we had a very soft berth. The oakum was out of her; the caulking sound; it would bring up, as far as the outside was concerned. I saw none of her timber. She was not cut.

Q.—How was the inside planking?

A.—Didn't go inside, at all; stuck right to my berth outside—the wheel-berth; that is the hardest berth in the ship. That caulked well, sir.

Q.—The Japan you speak of?

A.—The Japan, the China, and I have worked on others years ago. I recollect the particulars because—

Q. [Interrupting].—Do you recollect any other?

A.—Yes, sir; the John L. Stephens. I came here in the Stephens in eighteen hundred and fifty-seven, from Panama, with two thousand four hundred passengers, and the donkey-pump was going all the time, and if that had given way we should all have gone above or below. I saw once where some fool of a carpenter had butted some two or three planks on the same timber, a butt three and a half feet long, right aft the wheel where ships work most, and there was not a particle of oakum in it. I had a carpenter's awl that would reach through, and that butt came in my berth, and I put this awl in and scraped the wood right out.

Q.—Any other ships you know anything about?

A.—I have worked on hundreds of steamers here.

Q.—Do you know anything of the Senator?

A.—Yes, sir; I went a voyage on her last summer?

Q.—What is your opinion of her?

A.—My opinion is she is the best ship Goodall, Nelson & Perkins own. She is better for being an old ship. We used to build better ships twenty-five years ago than we do now. The tops have been generally overhauled. She is a first-class ship. She worked beautifully that voyage.

Q.—Have you any knowledge of the Orizaba?

A.—It strikes me I have worked on the Orizaba. I have worked on a good many of them; my memory does not serve me.

Q.—You can't pass an opinion about the Orizaba, one way or the other?

A.—No, sir; I wouldn't like to pass an opinion on them that I don't remember.

Q.—Have you any knowledge about the Pacific?

A.—Yes, sir; I know the Pacific.

Q.—Be so kind as to tell us what you know about her.

A.—She is a ship of great age. She is as old as a man with a beard on his face. I don't consider her a sound ship, from casually observing her. That is my opinion. I think I am a tolerably good judge

of a ship after working over it. I have been at the business thirty-five years.

Q.—Were you ever on any ship when Captain Waterman was there?

A.—I have; many of them.

Q.—In your opinion, what do you think of him as Inspector of Hulls?

A.—In my opinion he is not competent to inspect a hull, or any other ship captain; only a shipwright is competent. I would select nothing but a professional character—a shipwright, and nothing but a practical engineer to inspect boilers. Every man to his trade. Sea captains don't know anything about building ships. I know thousands of them that don't know as much as a farmer.

Q.—Do you know anything about the Japan?

A.—I have worked on her, as I told you.

Mr. Ostrom.—Do you know anything about the Coquille?

A.—I know her well.

Q.—Anything in relation to her capability?

A.—Yes, sir. In my judgment she is top-heavy, and very likely to roll over in a heavy sea. She is not balanced well. I wouldn't like to go to sea with her—like some of the monitors—get 'tother side up. I only just know from her model—should not like to trust her.

Q.—Do you know anything about the Orizaba?

A.—Yes, sir; and all those steamships. I know most every one of the vessels that belongs to this port—having been in the Assessor's office, and examined these vessels, and made assessments in this city and county on the shipping, and have examined them closely, in that way.

Q.—Do you consider the Orizaba a good sea-going vessel?

A.—Fair—simply fair. She is what I should rate as "fair." When I assess vessels I classify them "good," "new," "fair," and "old." That is the way I classify them when I make an assessment on shipping property.

Q.—About what do you class as "fair?"

A.—She will float going to sea in fair weather, but in a hard blow she would go under.

Q.—Another one of these fair-weather boats?

A.—That is all you require for eight months. A birch canoe will navigate in the summer time.

Q.—The Pacific doubtful bad?

A.—The Pacific just about as good as the general average.

Q.—Do you think she would pass muster with the balance?

A.—Yes, sir; with all those old vessels. Any of them, though, if they were to strike pretty hard, being tender and rotten, they will go down.

Q.—Do you know of any of those steamships you would be willing to risk yourself in?

A.—Any I would be afraid to go to sea in? No, sir, none. I would go to sea in a birch canoe, if necessary. I would rather be ashore though, if I had to go in some. I wouldn't like to go to sea in a vessel where in stormy weather the donkey-pump has to be kept going.

Q.—You think a good many keep the donkey-engine going?

A.—To sum up, I don't think they put the requisite repairs on.

They don't follow the old rule, that "a stitch in time saves nine." They should keep them constantly in repair.

The Chairman—Do you know anything about this matter? Do you know of any vessel that needs repairs, that has not got them?

A.—You mean ships?

Q.—Steamships.

A.—No, sir; I don't know. It has been all of two years since I worked on a steamship.

Mr. Perkins—Do you know that inside of the last two years, the Pacific had been thoroughly overhauled and repaired?

A.—Not of my own knowledge, I know nothing of it. If she was repaired, how thoroughly I don't know.

Q.—It is possible she might have been thoroughly repaired, and it not come to your knowledge, isn't it?

A.—Well, it is.

Q.—You classed the Orizaba as "fair." Upon what do you base your opinion? Have you personally examined her?

A.—I have personally examined almost all of them.

Q.—Did you bore the timbers of the Orizaba?

A.—No, sir; I did not go that far. I was not allowed to do it.

Q.—Did you ever make application?

A.—No, sir; not my business.

Q.—Why do you believe you would not have been permitted to examine?

A.—A person of my experience—one who has been on vessels so many years—can pass over them and form an opinion of them. The Orizaba stands about like the rest of the old vessels. She would go to sea, provided she didn't catch a hard blow.

Q.—You testify that twenty years ago they built better ships than now?

A.—If they are not kept in constant repair they will depreciate about ten per cent.; and in ten years they are gone up entirely, if they don't repair them.

Q.—What is the reputation of the owners of the Orizaba for keeping their ships in repair?

A.—First-class.

Q.—Then, captain, would you not believe that they have reason—would you not suppose that they care for their property, desiring to keep it up, sufficiently, not to permit it to depreciate?

A.—I don't think they would, if they were informed. I think the company of Goodall, Nelson & Perkins design to keep their vessels up in good repair.

Here the testimony is closed. The committee take a recess for ten minutes, then re-assemble, and then adjourn to meet at the call of the Chairman in Sacramento.

APPENDIX.

STATEMENT OF LYNDE & HOUGH.

SAN FRANCISCO, January 17th, 1876.

Hon. J. C. Murphy, Chairman Committee on Commerce and Navigation:

SIR: As there have been imputations cast upon the steamer Coquille, of which we are owners and agents thereof, before your honorable committee, at their sitting in this city, as regards her seaworthiness, we are compelled to take notice of the same, and render a plain statement of facts as regards her hull, the material used in her construction, and the present condition of said steamer, which we believe will explain itself. Now as to her history: She was built at the Potrero, in this city, in the year eighteen hundred and seventy-one, being launched in the month of August of that year. Her first trip was made in September following, to Half-moon Bay, for produce; made ten trips—then, freights being scarce at that point, we withdrew her. She then made one trip to Rogue River, Oregon, being the first steamer that ever entered that river. We then placed her in the Coos Bay trade, remaining in that trade until October, eighteen hundred and seventy-two, making twelve trips, and experiencing very heavy weather, such as is liable to be encountered during the winter months on the northern coast. Then receiving urgent letters from parties residing at Moro Bay, San Luis Obispo County, to place the steamer on that route, we acceded to their demands, being in that trade till April, eighteen hundred and seventy-three; then freights being scarce, and receiving much encouragement from parties resident of Humboldt County, we placed the steamer in the Humboldt Bay trade April twenty-sixth, eighteen hundred and seventy-three, and she has remained on this route ever since, being now on her ninety-second trip, running regularly winter and summer, in all kinds of weather—not having, since she was built, paid one dollar's damage from wet freight, or one farthing for personal damage to any passenger. During all this time there has been but one accident to said steamer, that being in the month of October, eighteen hundred and seventy-five, during a heavy fog. With a full cargo on board she ran on to a pile of ballast, where, it being ebb-tide, she remained six hours, and was floated off by return of the tide, mak-

ing no water. The Captain, deeming it prudent, made his trip, with passengers and freight, to this port, which was all landed in good order. After discharging, we made all necessary repairs that were required both by Inspectors and Marine Surveyors. In regard to the testimony given before your honorable committee, we were not apprised of it at the time, and we now assure you it was made by parties we have no knowledge of, and we are not aware that they have ever done one dollar's worth of work for us in any capacity. Hoping to receive a just decision at your hand, we are, sirs,

Very respectfully yours,

LYNDE & HOUGH.

P. S. We would say, the Coquille is insured in four local companies, at as low rates as any steamer running north.

STATE OF CALIFORNIA, }
City and County of San Francisco. } ss.

On this twenty-seventh day of March, A. D. eighteen hundred and seventy-six, before me, Arnold Fuller, a Notary Public, in and for said city and county, personally appeared before me W. C. Lynde and H. M. Hough, who, having been by me duly sworn, upon oath, each for himself, and not one for the other, deposes and says respectively: We constitute the firm of Lynde & Hough, doing business at numbers four hundred and sixteen and four hundred and eighteen Davis street, in the City and County of San Francisco, and know that the within statement is true and correct.

W. C. LYNDE,
H. M. HOUGH.

Subscribed and sworn to before me, this twenty-seventh day of March, eighteen hundred and seventy-six.

[SEAL.]

ARNOLD FULLER, Notary Public.

STATEMENTS OF CAPTAIN M. P. NOLEN AND E. P. FLOYD.

SAN FRANCISCO, February —, 1876.

The undersigned, having carefully inspected the Pacific Mail Steamship Company's steamer Constitution, do report as to her condition as follows: In the month of October, eighteen hundred and seventy-five, the after-guards of this steamer were taken off and reduced in width. To do this work in a thorough and proper manner, the hull of the vessel was opened and exposed to full view and examination. We each availed of the opportunity to ascertain the exact condition of her timbers and planking, and hereby certify that said timbers and planking were sound and substantial. The open ports which had theretofore existed were closed when her guards were reduced, and to do this in a thorough manner the planking for about fifty feet forward and aft of the wheels was removed and replaced by new plank. Our thorough knowledge of, and acquaintance with, every part of this steamer enables us to state that she is sound, substantial, and seaworthy as any steamship afloat, and is in all respects reliable, and worthy of the confidence of passengers and shippers.

M. P. NOLEN, Com. Constitution.

Subscribed and sworn to before me, this fifteenth day of February, A. D. eighteen hundred and seventy-six.

[SEAL.]

ALFRED C. CRANE, Notary Public.

E. P. FLOYD, Carpenter.

Subscribed and sworn to before me, this twenty-fourth day of February, A. D. eighteen hundred and seventy-six.

[SEAL.]

E. V. JOICE, Notary Public.

STATEMENT OF CAPTAIN H. C. DEARBORN.

SAN FRANCISCO, March 9th, 1876.

The undersigned, Commander of the Pacific Mail Steamship Company's steamer China, hereby certifies: This steamer, under his command, has just completed a voyage to Hongkong, arriving in this port February twenty-fourth. Her voyage outward and homeward was made in the winter months, usually the roughest and most stormy of the whole year. She carried out a large cargo, and brought home a full load of most valuable merchandise, all of which was delivered in good condition. From my personal knowledge I recommend this steamer as sound, staunch, and seaworthy; also believe she is entitled to the full confidence of shippers and passengers.

H. C. DEARBORN, Commander.

Subscribed and sworn to before me, this tenth day of March, A. D. eighteen hundred and seventy-six.

[SEAL.]

E. V. JOICE, Notary Public.

STATEMENT OF CAPTAIN ROBT. R. SEARLE.

SAN FRANCISCO, February 29th, 1876.

The undersigned, having carefully inspected the Pacific Mail Steamship Company's steamer Montana, reports as to her condition as follows: This steamer, under my command, arrived in this port, from Panama, on Saturday, February twenty-sixth. For forty-eight hours prior to making this harbor she had heavy head seas, with a very strong gale. Although loaded to her full capacity, having one thousand tons of dead-weight on board, and her speed not being slackened for a moment, she showed no signs of weakness, nor did she leak or show the slightest evidence of strain. I regard this steamer as eminently sound and seaworthy, and in every way entitled to the confidence of passengers and shippers.

ROBT. R. SEARLE, Captain.

Subscribed and sworn to before me, this seventh day of March, A. D. eighteen hundred and seventy-six.

[SEAL.]

E. V. JOICE, Notary Public.

STATEMENT OF JOHN A. WHELAN.

SAN FRANCISCO, January 29th, 1876.

Hon. J. C. Murphy, Chairman Committee on Commerce and Navigation :

Having read some of the testimony given before you, while in San Francisco, bearing on the seaworthiness of the steamship John L. Stephens, I deem it my duty to the public to make a statement of her present condition, having the opportunity of knowing by being in charge of the shipwrights' and joiners' department of the North Pacific Transportation Company and Oregon Steamship Company for the past eight years.

In the year eighteen hundred and seventy-two she was laid up for repairs. The frames were exposed on each side of the ship a distance of about two hundred and twenty feet fore and aft, near the load-line and at the top, for the purpose of having a thorough inspection, after which new beams were placed in the lower deck frame, in the vicinity of the boilers; a new lower deck, with heavy, long, standing knees to each of the principal beams; new eight-inch ceiling worked on each side in lower between decks, about two hundred and forty feet in length, well fastened through and through to each frame with locust treenails and bolts; a new set of beams were placed over the boilers, in lower between decks, with hanging knees to each beam; all the cabins and joiner-work were removed; extra timbers placed between each frame, and heavier planking and ceiling continued up to the line of spar deck; the spar deck was renewed from stem to stern with heavier beams, deck-plank and knees to each beam, also standing knees to every beam of the main deck; all the upper works were renewed, such as guards, wheel-beams, wheel-houses, bulwarks, bits, steering-gear, etc.; the hull and decks were also caulked thoroughly, inside and out. The time occupied in these repairs was over four months, giving employment to a large number of mechanics. Since doing these repairs, she has been considered by all who have inspected the ship closely, among whom were the original designer and builder, a stronger and more seaworthy vessel now than she ever was since she has been on this coast. Since doing these repairs, she has been in the dry dock, where she was caulked and received a new suit of metal, and at various times since there have been large amounts of money expended on boilers and machinery, and everything done to keep her in proper repair.

Yours, respectfully,

JOHN A. WHELAN.

STATE OF CALIFORNIA, }
City and County of San Francisco. } ss.

John A. Whelan, being duly sworn, does depose and say that the statements set forth in above communication are true and correct.

JOHN A. WHELAN.

Subscribed and sworn to before me, this thirty-first day of January, eighteen hundred and seventy-six.

[SEAL.]

JOHN HAMILL, Notary Public.

STATEMENT OF W. A. PHILLIPS, SUPERINTENDENT OF OREGON STEAMSHIP COMPANY.

SAN FRANCISCO, January 31st, 1876.

To the Hon. J. C. Murphy and members of the Committee on Commerce and Navigation :

GENTLEMEN: Having read the testimony, as published in the daily papers, in regard to rotten ships, and particularly in regard to the steamship John L. Stephens, in justice to the owners of said steamer I feel it to be my duty to present to your honorable body the following statement of repairs done to said steamer, not only to make her seaworthy, but as strong and safe as any steamer on the Pacific Coast. The supposition or idea conveyed to the general public by the testimony before your committee would be, if not contradicted, that the ships are allowed to run and rot, without any care being taken by the owners to insure the safety of their property or the lives of the passengers.

I do hereby certify and state, that I have been Superintendent for the North Pacific Transportation Company since the year eighteen hundred and seventy-one, and Superintendent for the Oregon Steamship Company since its organization, and that in the year eighteen hundred and seventy-two the steamship John L. Stephens received very extensive repairs to her hull—the work being done under my supervision, and with the consent and advice of the United States Inspector of Hulls, also of Mr. Amos Noyes, Marine Inspector for American Lloyds. The repairs consisted of new decks, new waterways between decks, standing knees put in between decks, filling in top sides, between frames, with new timbers, new guards and wheel-beams, new deck beams in main deck, also heavy stringers between decks, besides other repairs to strengthen and make the ship perfectly safe and seaworthy—expending the sum of sixty-two thousand dollars—since which time she has received all repairs considered necessary to keep her in a seaworthy condition. In the year eighteen hundred and seventy-three, between the months of January and May, I expended, on behalf of the company, the sum of eight thousand five hundred dollars on her boilers, putting in new flues, connections, flue-sheets, etc.; and in the year eighteen hundred and seventy-four I expended the same amount on boilers, putting in new ash-pans, lining in steam-chimneys, etc.; and in the year eighteen hundred and seventy-five, between January and May, there was twenty-five thousand dollars expended on outside shells of boilers, renewing the greater portion of the same, overhauling machinery, and renovating the ship. And these boilers, although being nearly all rebuilt inside of the last four years, are the boilers that have been sworn to by witnesses before your committee to be the same boilers that were put in the ship when she was first built. I can also say, that I am authorized by the agent of the company to do all necessary repairs to any and all of their ships when, in my judgment, and that of the agent, it is necessary for the safety of the ships and passengers. And I fully believe the steamship John L. Stephens perfectly safe and seaworthy, as I do all the ships under my charge.

W. A. PHILLIPS,

Superintendent Oregon Steamship Company.

STATE OF CALIFORNIA,
City and County of San Francisco. } ss.

W. A. Phillips, being duly sworn, does depose say, that the statements set forth in the above and foregoing instrument are true and correct.

W. A. PHILLIPS.

Subscribed and sworn to before me, this thirty-first day of January, eighteen hundred and seventy-six.

[SEAL.]

JOHN HAMILL, Notary Public.

STATEMENT OF GEORGE MIDDLEMAS,

*Of the firm of Messrs. Middlemas & Boole, Shipwrights and Caulkers,
Number Nineteen, Steuart Street, San Francisco.*

I know the steamer Coquille; have done all the work on said steamer since Lynde & Hough have been owners. Will state condition of hull, and material used: Said steamer Coquille was built in this city, in the year eighteen hundred and seventy-one (1871), being launched in the month of August of that year; material, oak and pine; length of keel, one hundred and ten (110) feet; depth of lower hull, seven and one-half (7½) feet; between deck, seven (7) feet; breadth of beam, twenty-two (22) feet; size of keel, twelve by fourteen (12x14) inches—one piece of said keel being ninety (90) feet in length; seven (7) kelsons running fore and aft of said ship (frame); floor timbers are of white oak, four by ten-inch (4x10) double; top timbers, Puget Sound pine, sided, four and six inches (4 and 6 inches), nearly close together. The first planking on said steamer was made in the year eighteen hundred and seventy-one (1871), the same being of the best Puget Sound fir; bottom plank, three (3) inches in thickness; plank on sides, two (2) inches in thickness—said steamer running on this plank for over two years. Her owners, considering the planks on sides rather light, decided to give her a new suit of planking over the old, which was done in the summer of eighteen hundred and seventy-four (1874). Said steamer was taken on to the dock and planked from keel to lower deck—plank running diagonally across the original—the same being of Puget Sound fir, two (2) inches in thickness, making, now, the planking five (5) inches below the bilge and four (4) inches on top sides—the last suit of plank fastened through all into the frame; the planking has three thousand (3,000) locust treenails, all spikes outside and on deck being galvanized; ceiling in bottom, three (3) inches; bilge streaks, five and seven (5 and 7) inches, running from flat of floor to lower end of hanging knees; clamps, four (4) inches; lower deck beams, six by nine (6x9) inches; two hanging-knees to each beam throughout the steamer; lower deck water-way, six by ten (6x10) inches; decks composed of Port Orford cedar, three by three (3x3) inches; the second deck was put on in March, eighteen hundred and seventy-five (1875); the frame was six inches, sided, and laps into old frame from three to five (3 to 5) feet; planking above main deck is two and one-eighth (2¼) inches in thickness; her upper deck beams have iron hanging-knees in

cabin; wooden knees in freight-room; upper deck clamps, two and one-half by twelve (2½x12) inches. All the fastenings throughout have been left to my own judgment, and I consider said steamer and fastenings as much and as heavy as any steamer or sailing vessel, according to size, out of this port. In making all repairs on said steamer it has been done by the day, and I never have been restricted as to price or material, as I always was instructed by the owners to do first-class work—and, in my judgment, I consider her sound in every particular, free from all defects, such as rotten wood. This is a correct statement of the present condition of said steamer. I am prepared to give any information or explanation that your honorable committee may desire in regard to the steamer Coquille.

GEORGE MIDDLEMAS.

Subscribed and sworn to before me, this seventeenth day of January, eighteen hundred and seventy-six.

JAMES L. KING, Notary Public.

E

REPORT

OF THE

Senate Committee on State Hospitals

ON THE

STOCKTON AND NAPA INSANE ASYLUMS

AND THE

INSTITUTE FOR THE DEAF, DUMB, AND BLIND.

STOCKTON INSANE ASYLUM.

Mr. PRESIDENT: Your Committee on State Hospitals have the honor to report that, in connection with the Assembly Hospital Committee, they have visited the Insane Asylum located at Stockton, and have investigated its conduct in every particular.

Two charges, differing in character, but both presumptive of moral incompetency, having been preferred against the Medical Superintendent of the Asylum, your committee have made them the subject for a thorough investigation, and beg leave to report their finding as follows:

First—We find no testimony whatever to substantiate the truth of the charge of malversation in using the appointment of employés as a means to influence political sentiment. We made a private and unexpected examination of the attendants, and in no case could we discover evidence of any qualification having been considered other than personal fitness for the position sought. And, as a further evidence of the falsity of the charge, we have ascertained that political sentiment among the attachés is about evenly divided.

Second—That the charge of extravagance in the quarterly estimates furnished the State Board of Examiners is unfounded, we must also record our opinion; and, as an evidence of the incorrectness of the charge, we beg leave to submit the annexed statement, showing the per diem cost of each patient from eighteen hundred and sixty-one to eighteen hundred and seventy-five, inclusive. In addition, we find that the Medical Superintendent has no connection whatever with the disbursement of the fund appropriated for the maintenance of the institution; all receipts and disbursements being by the Treasurer of the Asylum, a bonded officer, who is responsible solely to the Asylum Board of Directors.

Your committee also inspected the several hospital buildings. We find the male hospital in a still more crowded condition than when the attention of the Senate was first called to the existence of this evil. Outside of this, a matter entirely beyond the control of the Superintendent, we find nothing, either in the conduct or appearance of the male wards, but what should be commended. In the female hospital this trouble does not exist; and in that department the method, regularity, neatness, and cleanliness, which is apparent

everywhere, and even in the smallest detail, is worthy of more than mere mention. In this connection, we cannot refrain from making an especial allusion to the Matron in charge. To her able and efficient lieutenantcy is attributable, in a large measure, the thorough discipline and order observable throughout every ward; and her kindly nature, and eminent personal magnetism, combine to render her peculiarly adapted to the care and treatment of the insane.

Your committee call attention to the fact that the Stockton Asylum is made the receptacle for the insane, not alone of California, but of the Territories of Arizona, New Mexico, and Washington. And latterly there has prevailed to some extent, a custom of obtaining admission therein for invalids, in whom active insanity has been developed during a temporary residence in this State; in fact, instances are on record, where the only conceivable motive of travel hither could have arisen from a desire for the incarceration of a personal embarrassment in an institution far removed from the probability of private inquiry. Putting aside the view that such instances tend to sum up a roll of insane for California which is damaging, because false, to the health statistics of the State, it is nevertheless undeniable, that these cases are an imposition upon our public charity, and an unjust tax upon the revenue. At present there is no remedy; the patient is regularly committed, and it is not optional with the Medical Superintendent to receive or reject. Your committee would suggest, therefore, that attention be given to the subject, and that a mode of action be decided upon that shall relieve the treasury of an imposition, and our climatic features of an injustice.

BUSH, Chairman.

TABLE

Showing the annual average per capita expense per day for the support of patients in the Stockton Insane Asylum, from 1861 to 1875, inclusive.

The following table, showing the annual average per capita expense per day for the support of patients in the State Insane Asylum at Stockton, California, from eighteen hundred and sixty-one, to eighteen hundred and seventy-five, inclusive, has been prepared from the published reports of the Superintendent.

Nine of the reports previous to that of eighteen hundred and sixty-nine (except for the last quarter of eighteen hundred and sixty-eight), take into account the salaries of physicians in calculating the averages; and the report of eighteen hundred and sixty-one omits also the ordinary repairs which are included in every subsequent report. To furnish, therefore, a common and equitable basis for comparison, the omitted amounts should be included in the calculation, as follows:

Date.	Salaries.	Repairs.
For 1861.....	\$4,911 11	\$1,796 34
For 1862.....	8,000 00	
For 1863.....	7,333 33	
For 1864.....	8,000 00	
For 1865.....	5,930 55	
For 1866.....	6,000 00	
For 1867.....	6,000 00	
For 1868.....	4,000 00	

Years.	Per capita per diem.	Years.	Per capita per diem.
1861.....	48½ cents	1869.....	46 cents
1862.....	47½ cents	1870.....	46 cents
1863.....	49½ cents	1871.....	44 cents
1864.....	55 cents	1872.....	43 cents
1865.....	49 cents	1873.....	47 cents
1866.....	48½ cents	1874.....	43 cents
1867.....	48 cents	1875.....	44 cents
1868.....	47 cents		

Average for the first five years..... 49.9
Average for the last ten years..... 45.65

Decrease 4.25

There is another fact that should be borne in mind in comparing the expenses of the first five years with those of the last ten years; the new building for female patients was first occupied in the fall of eighteen hundred and sixty-five, since which time many items of expense have unnecessarily been duplicated.

NAPA INSANE ASYLUM.

MR. PRESIDENT: Your Committee on State Hospitals have the honor to state that, in accordance with the duties imposed upon them, they have visited and inspected the Insane Asylum located near Napa City.

We beg leave to submit herewith the annexed report and tables, showing the number of inmates, etc., and the actual monthly cost of maintaining the institution at the present time. This report was furnished at the request of your committee, by the Medical Superintendent of the Asylum, and is complete to the twenty-fourth day of December, eighteen hundred and seventy-five.

BUSH, Chairman.

REPORT OF THE MEDICAL SUPERINTENDENT.

To the Hon. C. W. Bush, Chairman, and members of the Senate Committee on Hospitals.

GENTLEMEN: I have the honor to answer the questions propounded by your honorable committee in regard to the Napa State Asylum for the Insane, as follows, viz:

Question—Are there any patients who were not insane at the time of commitment?

Answer—All committed so far have proven insane.

Q.—Cost per day per head for feeding?

A.—Fifty-four and one-half (54½) cents.

Q.—Capacity for patients in twenty days?

A.—One hundred (100).

Q.—Capacity for patients in forty days?

A.—Two hundred (200), provided furnishings are immediately ordered and appropriation made to purchase same.

Q.—Capacity in sixty days?

A.—Three hundred (300), subject to the same condition as preceding question.

Q.—Estimated amount necessary for providing for the number in forty days, and the number in sixty days?

A.—Estimated cost of furniture for two hundred patients in forty days, seven thousand five hundred (\$7,500) dollars; cost for one hundred additional patients in sixty days, seven thousand five hundred (\$7,500) dollars; total for three hundred patients' furnishing, fifteen thousand (\$15,000) dollars. Estimated cost for maintaining asylum for forty days, six thousand (\$6,000) dollars; for sixty days, ten thousand (\$10,000) dollars.

Q.—Number and classification of employes at present?

A.—Refer you to Schedule "F."

Q.—Number that will be required, estimated for the enlarged capacities as above, respectively?

A.—Refer you to Schedule "G."

Q.—Total expenses for November and December?

A.—Expenses of November, two thousand eight hundred and fifteen dollars and seventy-one cents (\$2,815 71); expenses for December, approximated nearly, as bills are not all in for the month, four thousand four hundred (\$4,400) dollars.

Q.—What does the medical department cost per month?

A.—So far fifty (\$50) dollars per month for medicines alone.

Q.—How many inmates will the building accommodate when completed, and estimated cost of running the same, under different headings?

A.—The capacity of the asylum is five hundred; by increasing the labor of attendants, the number of patients can be increased to six hundred and fifty or seven hundred. By furnishing the attics, and increasing attendants, if an emergency should occur, its capacity could be increased to nine hundred, with more or less sacrifice to hygienic laws.

I beg to refer you to accompanying tables and schedules in answer to other questions propounded by your honorable committee.

TABLE No. 1.

Summary of patients received at Napa State Asylum for the Insane, for the month of November, 1875.

Date.	Received.		Total.		Grand Total.
	Men.	Women.	Men.	Women.	
1875.					
November 15	2				
November 16	2				
November 19	1	2			
November 20	1				
November 22	1	1			
November 23	1				
November 24	1				
November 25	1				
November 27	2				
November 30	2		14	3	17

TABLE No. 2.

Summary of patients received at Napa State Asylum for the Insane, for the month of December, 1875.

Date.	Received.		Discharged.		Died.		Total.		Grand Total.
	Men.	Women.	Men.	Women.	Men.	Women.	Men.	Women.	
1875.									
Nov. 30	On hand.						14	3	17
Dec. 1	1								
Dec. 4	1								
Dec. 6	2								
Dec. 7	2	3							
Dec. 8		2							
Dec. 9	1	1							
Dec. 10		2							
Dec. 11	1	1							
Dec. 13	1								
Dec. 14	1	1							
Dec. 15	1	1							
Dec. 16		1							
Dec. 20	1								
Dec. 23	3								
Dec. 25		2			1				
Dec. 27	1								
Dec. 29	1	1	1						
Dec. 30	1								
Dec. 31									
	18	15	1		1		16	15	48

TABLE No. 3.

Patients at Napa State Asylum for the Insane, December 31st, 1875.

	Men.	Women.	Total.
Number admitted from November 15, to date.	32	18	50
Number discharged	1		
Number died	1		
Number improved	20	12	
Number unimproved	10	6	
Number remaining January 1st, 1876	32	18	50

TABLE No. 4.

Age of patients at time of admission.

Age.	Men.	Women.	Total.
Under fifteen years	1		1
Fifteen to twenty years	1	1	2
Twenty to thirty years	6	3	9
Thirty to forty years	8	5	13
Forty to fifty years	6	5	11
Fifty to sixty years	6	1	7
Sixty to seventy years	2		2
Seventy to eighty years	1		1
Age not stated	1	3	4
	32	18	50

TABLE No. 5.

Nativity of patients admitted from November 15th to December 31st, 1875.

United States.	Men.	Women.	Total.
California	3		3
Indiana	1		1
New Jersey	1		1
Virginia	1		1
New Hampshire	1		1
Maryland	2		2
Pennsylvania		1	1
Illinois		1	1
New York		1	1
Missouri		1	1
Connecticut	1		1
State not given	1	2	3
	11	6	17

TABLE No. 6.

Nativity of patients admitted from November 15th to December 31st, 1875.

Foreign.	Men.	Women.	Total.
Ireland	6	9	15
Austria	1		1
Germany	5	1	6
France	1		1
England	2		2
Portugal	1		1
Norway	1		1
Mexico		1	1
Guatemala	1		1
Italy	1		1
Unknown	2	1	3
	21	12	33
RECAPITULATION.			
United States	11	6	17
Foreign	21	12	33
	32	18	50

TABLE No. 7.

Occupation of patients admitted from November 15th to December 31st, 1875.

Occupation.	Men.	Women.	Total.
Housewife		11	11
Farmers	4		4
Saloon-keeper	2		2
Necromancer	1		1
Dishwasher	1		1
Sailor	2		2
Laborer	5		5
Carpenter	1		1
Machinist	1		1
Merchant	1		1
Lumberman	1		1
Dressmaker		1	1
Sea captain	1		1
Cooper	1		1
Miner	1		1
Cook		1	1
Peddler	1		1
Merchant tailor	1		1
Baker	1		1
Unknown	7	5	12
	32	18	50

TABLE No. 8.

Civil condition of patients admitted from November 15th to December 31st, 1875.

Civil Condition.	Men.	Women.	Total.
Married	9	10	19
Single	17	4	21
Widowed	3	2	5
Not stated	3	2	5
	32	18	50

TABLE No. 9.

Supposed or assigned cause of insanity of patients admitted from November 15th to December 31st, 1875.

Cause.	Men.	Women.	Total.
Intemperance	5		5
Masturbation	2		2
Hereditary	1		1
Domestic troubles		1	1
Overwork and ill-health	1	1	2
Nostalgia		1	1
Grief		1	1
Political	1		1
Epilepsy	1		1
Sun-stroke	1		1
Unknown	20	14	34
	32	18	50

TABLE No. 10.

Duration of insanity before admission.

Duration.	Men.	Women.	Total.
One to two weeks	7	2	9
Two to three weeks	1		1
One to two months	4	3	7
Two to three months	1	1	2
Four to five months		2	2
Six to eight months	2	1	3
One to two years	2	1	3
Four years	1	1	2
Unknown	14	7	21
	32	18	50

TABLE No. 11.

Residence of patients admitted from November 15th to December 31st, 1875.

County.	Admitted.	Remain- ing.
Contra Costa	2	1
Alameda	1	1
Los Angeles	1	1
Napa	2	2
San Francisco	34	33
Solano	3	3
San Mateo	1	1
Sonoma	2	2
Santa Cruz	1	1
Yolo	2	2
Yuba	1	1
	50	48

SCHEDULE A.

List of officers and salaries of Napa State Asylum for the Insane.

No.	Occupation.	Salary.
1	Medical Superintendent	\$250 00
2	Assistant Physician	166 66
3	Clerk to Medical Superintendent	100 00
4	Steward and Landscape Gardener	150 00
5	Apothecary	75 00
6	Engineer	90 00
7	Carpenter	90 00
	Cost per month	\$921 66
	Cost per year	\$11,059 92

SCHEDULE B.

List of employes, other than officers, required at Napa State Asylum for the Insane, to care for five hundred patients.

No.	Occupation.	Salary.
44	Attendants, at \$40 per month	\$1,760 00
2	Watchmen, at \$40 per month	80 00
1	Porter	30 00
1	Messenger	30 00
5	Cooks, average \$50 per month	250 00
5	Helpers in kitchen, at \$40 per month	200 00
2	Car men, at \$40 per month	80 00
5	Farm-hands, at \$40 per month	200 00
1	Farmer	50 00
2	Laundrymen, one \$40, one \$30	70 00
	Cost per month	\$2,750 00
	Cost per year	\$33,000 00

RECAPITULATION.

Salaries of officers per year	\$11,059 92
Salaries of employes per year	33,000 00
Total salaries per year	\$44,059 92

SCHEDULE C.

Estimated cost of groceries and provisions required for maintenance of five hundred patients, officers, and employes at Napa State Asylum for the Insane, per annum.

Articles.	Cost.
Flour	\$8,557
Meat	9,000
Sugar	2,625
Tea	1,400
Syrup	825
Potatoes	1,780
Butter	2,600
Coffee	1,080
Lard	330
Bacon	105
Fish	1,125
Beans and peas	375
Rice and cracked wheat	350
Corn meal and middlings	460
Fruit	400
Vegetables	350
Salt	125
Vinegar	80
Small groceries	1,136
Soap and potash	1,000
	\$33,703

SCHEDULE D.

Estimated cost per annum of lights, fuel, and clothing for five hundred patients at Napa State Asylum for the Insane.

Gas for lighting building	\$1,500
Fuel for kitchen, laundry, and warming building	8,750
Clothing and dry goods	7,500
Total for the year	\$17,750

SCHEDULE E.

Estimated cost per annum for miscellaneous expenditures for five hundred patients at Napa Asylum for the Insane, viz:

Furniture, crockery, tinware, bed, and bedding, for ordinary wear and tear.....	\$1,050
Hay, grain, and feed.....	2,500
Drugs and medicines.....	2,500
Office expenses, stationery, and postage.....	400
Expenses of discharged patients.....	450
Garden seeds and tools.....	200
Repairs, and small expenses not enumerated.....	2,500
	\$9,600

SCHEDULE F.

Number and classification of employes at Napa State Insane Asylum for the Insane, December 31st, 1875.

No.	Occupation.	Amount.
1	Medical Superintendent.....	\$250
1	Clerk.....	100
1	Steward and Landscape Gardener.....	150
1	Engineer.....	90
1	Apothecary.....	75
1	Carpenter.....	90
8	Attendants, at \$40.....	320
3	Seamstresses, at \$40.....	120
6	Farm-hands, at \$30 to \$40.....	180
2	Cooks.....	125
1	Helper to cooks.....	40
1	Gardener.....	40
2	Laundrymen, at \$30 to \$40.....	70
1	Baker.....	45
1	Fireman.....	40
31	Total.....	\$1,735

SCHEDULE G.

Estimated number and classification of employes required for two hundred patients.

No.	Occupation.	Amount.
1	Medical Superintendent.....	\$250 00
1	Assistant Physician.....	166 66
1	Clerk.....	100 00
1	Steward.....	150 00
1	Engineer.....	90 00
1	Apothecary.....	75 00
1	Carpenter.....	90 00
16	Attendants, at \$40.....	640 00
3	Seamstresses.....	120 00
4	Farm-hands.....	130 00
3	Cooks.....	175 00
3	Helpers.....	120 00
1	Gardener.....	40 00
2	Laundrymen.....	70 00
1	Baker.....	45 00
1	Fireman.....	40 00
41	Total.....	\$2,301 66
<i>For three hundred patients.</i>		
8	Attendants, additional.....	320 00
2	Cooks, additional.....	100 00
2	Helpers, additional.....	80 00
53	Total.....	\$2,801 66

RECAPITULATION

Of estimated cost per annum for maintaining five hundred patients at Napa State Asylum for the Insane.

Salaries of officers, as per Schedule A.....	\$11,059 92
Salaries of employes, as per Schedule B.....	33,000 00
Groceries and provisions, as per Schedule C.....	33,703 00
Lights, fuel, and clothing, as per Schedule D.....	17,750 00
Miscellaneous expenses, as per Schedule E.....	9,600 00
	\$105,112 92

Cost per day, per patient.....57½ cents.

DEAF, DUMB, AND BLIND ASYLUM.

MR. PRESIDENT: Your Committee on State Hospitals have the honor to report that in compliance with the duties imposed upon them, they have visited and examined the Deaf, Dumb, and Blind Asylum, located near Oakland.

Since the adjournment of the last Legislature, the buildings formerly occupied by this institution have been destroyed by fire, and the structure at present used is a temporary building erected by the Board of Directors of the asylum, mainly by means of assistance from private individuals. As a consequence we found that the inmates, although only ninety-nine in number, are seriously cramped for want of suitable accommodation, and that this is especially the case in the sleeping and hospital wards, which are necessarily so crowded and so situated as to violate all hygienic principles.

Your committee contemplates with apprehension the introduction of instruction in such branches of education as are involved in the teaching of the advanced mathematics, the natural sciences, or such other studies as would prove, from the misfortune of the recipients, solely ornamental in the acquirement; and would recommend that the course of instruction shall be strictly confined to such studies only as will enable them to hold intelligent intercourse with each other and the outside world.

We would further recommend that practical instruction in useful trades shall be insisted upon as a speciality, to the end that these children of misfortune may become to a less degree objects for the exercise of charitable effort. In other respects we find nothing but what is commendable; the neatness shown, the regularity in the business conduct of the establishment, and the evident benefit resulting to the pupils from the thorough and complete method of government, can only be spoken of in terms of unqualified praise.

Your committee takes pleasure in recommending action tending toward a relief of the inconveniences at present existing, and desires to say that, during their experience, no charity has been found that appeals so earnestly to the sensibilities as that distributed to those who are helpless, not alone through their infirmities, but by reason of their tender age.

BUSH, Chairman.

REPORT

OF THE

ASSEMBLY SPECIAL COMMITTEE

APPOINTED TO INVESTIGATE THE AFFAIRS OF THE

GOLDEN CITY HOMESTEAD ASSOCIATION,

SAN FRANCISCO.

REPORT.

ASSEMBLY CHAMBER,
February 25th, 1876. }

Mr. SPEAKER: Your special committee appointed to investigate the affairs of the "Golden City Homestead Association," a company incorporated in this State on the second day of January, eighteen hundred and sixty-four, have given the subject long and careful consideration, and beg leave to submit the following report:

We find that at the session of eighteen hundred and sixty-three-four the Legislature passed an Act granting to said association one hundred and fifty-three (153) acres of submerged lands, situated within the limits of the City and County of San Francisco.

By the testimony of various witnesses (which is herewith submitted, and made a part of this report), we find that the passage of said Act was procured by representations which were grossly and glaringly false.

We find from the testimony that the parties who procured the grant have totally failed to fulfill each and every of their implied agreements to benefit the people, and that it was chiefly by virtue of those implied agreements, that they were enabled to procure the desired legislation.

We find that, in addition to these implied agreements, they made promises that, if the State would grant them the submerged lands lying in front of their back or high lands, they would grade and level down the latter and fill in the former, thus converting comparatively valueless property into available and desirable homesteads for the people.

We find that up to this time, each and every of these conditions, either expressed or implied, have been wantonly and flagrantly disregarded; that there has been no leveling down of high lands, no filling up of submerged lands; that all, or nearly all of the latter have been absorbed into the monopolizing hands of the cormorant grantees; that not a homestead, nor a site for a homestead, is to be found upon them.

It is proved by the testimony of at least one of the perpetrators of this fraud, that the popular form of a homestead association was adopted by them, that they might, under that guise, obtain a grant that would most probably have been denied to a few individuals.

This association, it is confessed, was to a large extent composed of

the tools of Mason & Bensley, of persons who had no real interest in the affair, and merely held or covered up the stock of their employers. This stock, we find in the majority of instances, at the proper time fell back into the hands of Mason & Bensley, and this entirely without any consideration that could be proven to your committee.

We find, moreover, both by testimony taken before our committee, and before a Senate committee, at the session of eighteen hundred and sixty-nine-seventy, that other and unlawful influences were used to procure the passage of the Act above referred to, by the distribution of stock of said incorporated company, to procure aid in the passage of the bill.

One important witness, Frederick Mason—who now owns or holds about one-half of said grant—was cited to appear and testify before your committee, but responded with a certificate from his physician that he was too unwell to attend. Hence we have been deprived of his valuable testimony in this investigation, but we have reliable evidence that in a former examination, before a legislative committee, he admitted that stock was given to outside parties to procure their aid in the passage of the bill.

Thus, by evidence, has been established a case, the like of which has often been rumored—such rumors sapping the very foundations of public faith in official integrity, and blighting the traditional reverence of our race for the forms and the essence of law. The fountain-head of law, which should alike be the fountain-head of justice and purity, has been foully polluted. Selfish and designing men, calling to their aid a band of professional corruptionists, actuated by none but motives of personal aggrandizement, urging specious pleas of regard for the public welfare, have played upon the too credulous confidence of high-minded and honorable legislators, and thus, by deceitful and corrupt means, have succeeded in clothing with the sacred vestments of statutory law a hideous fraud and flagrant scheme for the spoliation of the State.

From these well-established facts, your committee concludes that every consideration of honor and duty demands at our hands the expungement of this foul blot from the statute book, and that every consideration of honor and duty demands reparation and restitution—prompt, effectual, and complete. The passage of the Act was procured by fraud, and by unlawful means, and proceedings should immediately be commenced to annul the grant, vacate the patent, and return the lands to the State.

To this end we recommend the passage of the bill herewith reported, authorizing a reasonable appropriation to pay additional counsel to assist the Attorney-General in prosecuting the case, and empowering the Governor to appoint some competent attorney for that purpose.

All of which is respectfully submitted.

WILCOX,
MURPHY,
GARRETSON,
HARDING,
CARSON.

TESTIMONY.

FRIDAY, January 21st, 1876.

Members of the committee present—Messrs. Wilcox (Chairman), Murphy of Del Norte, Carson, Harding, and Garretson.

SAMUEL I. C. SWEEZY, sworn.

Mr. Wilcox—State to the committee, in as precise terms as possible, all you know in relation to the grant of land made to the Golden City Homestead Association, the purpose for which it was intended, and how far the parties to whom that grant was made have carried out the provisions of the Act?

Answer—The association was organized in eighteen hundred and sixty-four, or in the latter part of eighteen hundred and sixty-three. But I should state, before I enter upon the full answer to that question, that at the preceding investigation into this case I was before the then committee with the books of the association, containing the entire records, and showing the whole process during its existence; that these books were never returned by the committee; and that I have no data whatever, excepting the memory that comes to me after looking over the testimony which I then offered. So I say I think it was in eighteen hundred and sixty-four that it was organized. We immediately, upon its organization, in due form, appointed the usual committees, among which was a Committee on Real Estate. This committee, after a reasonable time, reported in writing, and which I am fortunate enough to find among the papers I have brought with me, and which, with your permission, I will give you. I may add, by way of parenthesis, that at the preceding examination I also brought all the papers—almost all the papers—which throw light upon the matter, and they were left with the committee, and they never have been returned. I examined the papers I had, and brought all I could find with me. [Paper handed in by witness, and marked "Exhibit A."] This Committee on Real Estate reported at a meeting of the Directors, and were instructed to complete the purchase of certain lands in the City and County of San Francisco, for the benefit of the association, which they did. The contract was duly executed, I think, in accordance with its terms.

Mr. Carson—Who were the parties?

A.—The parties from whom the land was bought?

Q.—Yes.

A.—John Bensley, Frederick Mason, and several others. The record will show the precise names. I do not remember the names. The sum to be paid for that land was one hundred thousand dollars, in sums of five thousand dollars per month. I think this report will show that that contract was fulfilled. In regard to the patents, I only remember that the provisions of the Act were complied with according to its strict letter; that the Swamp Land Commissioners, to whom the valuation of the tide lands was referred, examined them; that they made their award of the value, and that the value was paid to the State.

Mr. Wilcox—Do you know anything about who the parties were who came to the Legislature to ask for the passage of that bill?

A.—I do not.

Q.—Were not Bensley and Mason the parties who held the high lands—were not they the parties who were interested in securing the grant obtained by Act of the Legislature?

A.—Bensley, Mason, and others. I presume that they were active in bringing up this legislation; but I do not know. I have no knowledge about that.

Q.—What was the proposition at the time *Mr. Martin*, one of the stockholders, was present, to cause him to withdraw from the association?

A.—I do not remember that there was any.

Q.—Was not there a proposition to sell the land that cost twenty thousand dollars to the association for one hundred thousand dollars?

A.—I never heard of it before.

Q.—Did you buy *Martin's* stock in that association when he gave notice for reconsideration in the meeting, of the vote by which the association carried the proposition?

A.—I have no recollection whatever of that. Is it so, *Mr. Martin*?

Mr. Martin—Yes, sir.

Mr. Wilcox—Have you any knowledge of what the arguments were, that were used before the Legislature to secure the passage of the bill?

A.—No, sir; I have not.

Q.—Was not it your understanding that a stipulation was offered that the high lands should be used to fill in the homesteads of the association and create title to the property?

A.—No, sir; I have no such knowledge.

Q.—What connection did you have with the association. Was you an original holder of the first purchase of the high lands?

A.—I think I was one of the persons who signed the certificate of incorporation.

Q.—How much of that land was ever sold under the proposition? Was it subdivided?

A.—I do not understand the question.

Q.—How much of that land was sold?

A.—It was all sold. That is to say, the association purchased the whole land, and near the close of the second year—eighteen hundred and sixty-six, I think, it must have been—probably in October or November, the lands were distributed in accordance with the by-laws of the association.

Q.—Have you a copy of the by-laws of the association?

A.—No, sir; they are supposed to be in the possession of the Legislature.

Q.—Do you know whether the association ever leveled down the high land, and made the improvements designated in the bill?

A.—No improvements were designated in the bill.

Q.—The improvements that were agreed upon—that were held out? Do you know whether the association ever cut down the high land?

A.—The association never did.

Q.—Was not it in agreement at that time, in the argument before the Committee on Commerce and Navigation, that in the event of this tide land being given up by the State, it should be filled in, and made taxable property?

A.—I only know what the Legislature did.

Q.—Do you know who the present holders are?

A.—I do not know.

Q.—You are well acquainted with Frederick Mason.

A.—Yes, sir.

Q.—Was he a principal holder?

A.—Quite a large holder. In the distribution there were over one hundred different persons who received deeds to the property in accordance with the by-laws.

Q.—Was your association ever notified of the passage of a joint resolution calling on the Attorney-General to commence proceedings for the vitiation of the patent?

A.—No, sir.

Q.—You never received notification of it?

A.—Never received notification of it. I saw it in the legislative proceedings—that is all. I do not know whether anything was ever done about it.

JOHN MARTIN SWORN.

Mr. Wilcox—Were you at one time a stockholder in the association known as the Golden City Homestead Association?

Answer—Yes, sir.

Q.—When you purchased your stock in that association what was your impression as to its object?

A.—The object, as I understood it, was to get the tide land and level down the hill; fill it in and make it taxable property.

Q.—You were at the Legislature a portion of the time—in eighteen hundred and sixty-three and eighteen hundred and sixty-four when this bill was passed; were you not?

A.—Yes, sir.

Q.—Was it not your understanding that the parties who made this application for tide land were to throw in this high land property into the association at the cash price—twenty thousand dollars—and that they were going ahead in good faith to level down the land, make an assessment on the corporation, and make homesteads out of it?

A.—I so understood it.

Q.—You bought your stock for that purpose?

A.—Yes, sir.

Q.—In good faith?

A.—Yes, sir.

Q.—You were present at the first meeting of the incorporation?

A.—One of the meetings; I do not know whether it was the first, second, or third.

Q.—State what occurred there?

A.—My impression is that they wanted to charge one hundred thousand dollars for the property, or assess it at that; I do not know which. That is why I got you to ask Mr. Sweezy, the Secretary, the question. I objected to it, but they all appeared to understand each other. I was apparently an outsider in the matter, and when they voted I think I gave notice of a motion to reconsider at the next meeting, stating that I would publish the matter in the papers, and give the stockholders an opportunity to come there and defend themselves, as I considered it was an outrage. After the meeting adjourned, some one—I think Sweezy—asked me what was the matter. I said I understood the property was to be sold for twenty thousand dollars, and they wanted to charge one hundred thousand dollars for it; and I objected to it. Says he, "What do you want?" Says I, "I do not want my stock"; and they bought it from me; took the stock, and I left. They paid me the original price I paid in.

Q.—Do you ever visit that portion of the city where this homestead association is situated?

A.—Very seldom.

Q.—Have you ever noticed whether, in compliance with the agreement they had with the Legislature, they have leveled down the hills, and filled up the property in front?

A.—They have not. I have inquired, and been over there, and have never seen any improvements of that character.

Q.—You recognised, as a matter of course, when you purchased the property, that there was an implied contract between the State and the parties who asked for the passage of the bill, in the event of their receiving the tide land, that they were to do that filling in?

A.—I so understood it.

HENRY F. WILLIAMS SWORN.

Mr. Wilcox—We call on you, Mr. Williams, as an expert in this matter. You have been dealing in tide lands for some time in San Francisco?

Answer—I have.

Q.—You were present at the Legislature at the time this grant was made?

A.—I was.

Q.—Will you state to the committee what was your understanding, at that time, of the intention of the bill; also, of the arguments used in committee to secure its passage?

A.—I think the same arguments were used by the Golden City and North San Francisco Homestead Associations, that had been used by the South San Francisco Homestead Association, which I represent. I know the arguments I raised, and I heard them urged on behalf of the parties representing this very association.

Q.—State what these arguments were in relation to the other associations?

A.—I will state that the South San Francisco was the first homestead association of that kind. We represented to the Legislature that we owned a large body of upland, most of it hill land; that we wanted the tide land, with that hill land, that we might grade the hills down; that we also contemplated building a dry dock, and making large improvements; that the land was really owned by a number of parties as a homestead association, and that it would in

time be divided up into homestead lots. With that argument we succeeded in getting a grant, but we were limited to six feet of water. That was the first grant. We were much pleased, of course, in receiving that grant, but in the meantime we resolved on building a dry dock, and six feet of water was not sufficient. At the request of the association I came to the Legislature and asked for an extension at the point just where we proposed to build a dry dock; and in the bill prepared for us, there was a proviso that all rights acquired should be forfeited unless we expended a certain amount—I forget how much, but several hundred thousand dollars—and we urged that as a reason why such a grant should be made. We succeeded in getting such a bill passed, but the Governor pocketed the bill, and the reason was, he did not think we meant in good faith to do what we proposed. He signed the other bills, and I can only infer he had the strongest reasons for believing they meant to do something. I know we agreed to spend so much for this additional depth, but the Governor would not sign it.

Q.—But he signed the other bills?

A.—Yes; and I have every reason to believe he thought they meant in good faith to make the improvements.

Q.—You are conversant with the locality?

A.—Yes, sir.

Q.—Have they, in your opinion, done the kind of work necessary to make taxable property? Have they segregated the land, and subdivided it among bona fide settlers, as they expressed their intention to do before the committee and members of the Legislature?

A.—I have occasion to pass by that land every day once or twice. I live beyond it. If they have done anything in the way of improving it, I am not aware of it. I do not think they have spent a dollar in segregating it. I do not think there has been more than two or three buildings erected on the property since that time. I am quite well satisfied that they have not carried out the theory of a homestead, as other homestead associations of the city (there are quite a number of them) have done. I do not think it shows any of the evidences of a homestead association.

Q.—To your knowledge and the best of your belief, don't you believe that most of that land is now held by two or three parties?

A.—That is the general supposition. As far as I know that is the case. There may be a good many owners I do not know anything about; but that is my impression of what I do know.

Q.—From your knowledge and experience of homestead associations and tide-land matters down there, you are satisfied that the intention of the Legislature in handing that property over was for the purpose of making taxable property?

A.—I think so, from my experience. They would not give our association anything until we positively agreed to do certain things that would make taxable property, and would be an equivalent for it; and, as I said, in the second instance we could not get the additional depth we wanted at that Legislature. It was afterwards got, and the dry dock was built. There has been a great deal done on the property I represent. It is divided up among hundreds of men. It is practically a homestead. I myself have been living on the land for eight years.

Mr. Harding—How much has been expended in all since the grant was made?

A.—On the South San Francisco?

Q.—Yes.

A.—Well, the dock was built there, and a railroad was—

Q.—I am speaking of the Golden City Association.

A.—There has been nothing that I am aware of. There were one or two little ways for drawing up small schooners.

Q.—Well, what amount of money was required to make improvements of that kind?

A.—Well, I should think a couple of thousand dollars would be a very large estimate; and, as I understand, these improvements were made by parties who bought small lots from the owners of this land. I never understood they were in any way connected with the homestead association, but they purchased or leased the land for that purpose.

Q.—Who do you understand to be the principal owners?

A.—I, and everybody else in the community, understand Mason and Bensley to be the owners. There may be somebody else who own small portions, but I always understood they were the owners of a very large proportion of the property.

Q.—I understand no grading or filling has ever been done?

A.—Not a particle, that I am aware of, and I have traveled over the property a great deal. If that was the argument, or if that was the reason that actuated the donation—for it was virtually a donation—the price being at three dollars an acre, then nothing has been done. I know we regarded ours a donation; we paid a nominal price; but it was a donation, and we agreed to do a great deal, which has been done, and in consequence of the grant we spent ten times the amount the property could have been sold for. We gave an equivalent for the grant in the improvement of the property.

Mr. Carson—You are speaking of the South San Francisco Association?

A.—The South San Francisco; and if that was the reason the other association got the grant—to effect improvements—they have not carried out the spirit of the agreement.

Q.—What other motive could you understand the property to have been given for?

A.—I cannot conceive of any. It was not the sale of the property for three dollars an acre. That could not have been the motive.

Mr. Carson—I desire information, which I may possibly be able to obtain from this witness. I want to thoroughly understand just what we are inquiring into. May I be permitted to question him.

Mr. Wilcox—Certainly.

Mr. Carson—You say you are acquainted with the locality?

A.—Yes, sir.

Q.—You are acquainted with the upland that was mentioned in the application of this homestead association?

A.—Yes, sir.

Q.—Will you state, if you know, the amount of upland that this Golden City Homestead Association owned at the time of making this application; the number of acres, in round numbers.

A.—It was reported about one hundred acres.

Q.—What was the value of that tract of one hundred acres—the then value?

A.—At that time, with the disputed titles on the Potrero, there was no great value to it. Lands equally valuable, I know, on the Potrero, were sold about that time for four hundred dollars or five hundred dollars an acre. There was very little real value to the property at that time. The titles are settled now, and the properties are very valuable.

Q.—Was it worth five hundred dollars an acre?

A.—I should not have given that for it.

Q.—Was it worth one hundred and fifty dollars?

A.—I think it was.

Q.—It was worth one hundred and fifty dollars; was it worth anything more?

A.—To anybody willing to take the risk of law suits the venture was good at one hundred and fifty dollars.

Q.—In your opinion?

A.—To those who would deal in such property, yes.

Q.—If you know, tell to the committee if you please, the extent of territory covered by this donation or grant by the Legislature to the Golden City Homestead Association. Was that fixed at one hundred and fifty acres, Mr. Chairman?

Mr. Wilcox—The patent calls for one hundred and fifty acres.

Witness—That is above the amount, I should think.

Mr. Carson—Above the amount?

A.—Yes, sir; I know that I was asking for ten or twelve acres at that time. We had received about two hundred, however, before, while we had six hundred of upland. In this instance, there were one hundred of upland and they were asking for one hundred and fifty of submerged land.

Q.—Do you know whether this homestead association took possession of the one hundred and fifty acres immediately after the passage of the Act?

A.—What sort of possession? They did not put anything on it to take possession.

Q.—As far as they could with that class of property?

A.—They claimed ownership.

Q.—Have they ever enlarged that possession beyond the mere constructive possession?

A.—If they have ever spent a dollar on it I am not aware of it. They did subscribe a little towards a railroad piled across this property; but if they have ever spent a dollar on the land I have not been able to see it.

Q.—Is that tract of land so granted to them, or any of it, in the same condition to-day that it was in at the time of the grant to them by the Legislature?

A.—Precisely; except that the railroad company has run a railroad track across.

Q.—What railroad company?

A.—The Potrero and Bay View. On the land itself, apart from what is built on Kentucky street by the railroad company, if there has ever been one dollar spent, excepting these ways I speak of on the beach, built by some ship carpenters, I have never seen it.

Q.—Tell us, if you know, whether the Golden City Homestead Association is the owner of the railroad.

A.—No; they subscribed for a little stock, and forfeited it, because it was of no value.

Q.—Then this association did not even spend the amount necessary to construct that bridge or piling?

A.—No, sir; nor the half of it.

Q.—What they contributed did not half pay for the portion that went over their land?

A.—No, sir.

JOHN BENSLEY SWORN.

Mr. Wilcox—Please to state to the committee your connection with the Golden City Homestead Association.

Answer—I was one of the owners of the upland that was sold to the association. There were a hundred acres sold to it at a thousand dollars an acre. There was a contract entered into with them, I think, by which they had a right to buy at that price, provided they could get a grant from the State.

Q.—With whom was this contract entered into?

A.—With the Trustees of the association.

Mr. Carson—By whom?

A.—By Mason and myself.

Q.—You were the then owners?

A.—We were the then owners of the upland. I would like to ask a question, if you would allow me.

Mr. Wilcox—Certainly.

Witness—I would like to know the object of this investigation.

Mr. Wilcox—I will state what the object is. The charge is made that the parties claiming to be the Golden City Homestead Association have failed to comply with their implied contract with the State. That is to say, they procured a grant of one hundred and fifty acres of tide land under false pretenses. They have not carried out the provisions or the intent of the Act; they have not leveled down the high land or segregated the property of the homestead association; and the intention of the inquiry is to instruct the Attorney-General, if the proof should justify us, to take proceedings to vitiate the patent.

Witness—I will say these proceedings have been gone through already. There was a thorough investigation made in eighteen hundred and seventy. And furthermore, if there had been fraud—I will state, that so far as I know there has been no fraud—but if there had been, I am advised that the statute of limitations would apply; that the proceedings would have to have been commenced within three years.

Mr. Murphy—That is a legal proposition.

Mr. Wilcox—I will ask you if any proceedings were ever taken by the Attorney-General?

A.—No, sir; there never was.

Q.—Can you give any reasons why he did not commence proceedings?

A.—I do not know. I did not know the Attorney-General. I did not speak to him, and I do not know any other person ever did anything.

Q.—You never bothered yourself about it?

A.—I never heard of it. I am satisfied where this commenced, and the cause of it; and it is not done now to get the land to revert back to the State. There are other objects in view, I presume; but not with you gentlemen, of course.

Mr. Wilcox—The Chair is unable to tell anything about that. As the introducer of the motion, I had no other object than to get the land to the State.

Witness—As I before said, Mason and myself were the owners of the upland. There was an association formed, and this contract was entered into to purchase this land for one hundred thousand dollars, with the proviso, in case they obtained the grant, which they did obtain. They purchased the land, and paid for it. There were one hundred—I think from one hundred and twenty to one hundred and thirty—shareholders. I think there was that number.

Q.—Is there that many now?

A.—I do not know how many there are now.

Q.—Do you own a portion of that land now?

A.—I do own some of it.

Q.—How many of these one hundred and fifty acres do you own now?

A.—I do not know how many.

Q.—Do you know how much Mason owns?

A.—I do not.

Q.—Has it ever been segregated?

A.—Well, in what way?

Q.—Divided up into homestead lots.

A.—Oh yes, divided up; and it is given to the owners.

Q.—Have any improvements been made on it in the way of leveling down the hills and filling up?

A.—No, sir.

Q.—None at all?

A.—No, sir. It was not required by the law. The law granting it did not require it to be done.

Q.—Don't you think that was used as an argument around the Legislature, and before the Committee on Commerce and Navigation, to whom the bill went; that it was implied, if the grant was given, the parties owning the high land in the rear would fill up.

A.—That I do not know. I was not here. I do not think I was in the city that winter.

Q.—Well, what inducement did the Legislature have to give one hundred and fifty acres of land to parties who simply wanted to enrich themselves?

A.—I suppose the object was to sell the land at an appraised value.

Q.—At three dollars per acre?

A.—The price was not stated, as I understand it. It was to be valued by Commissioners. Commissioners were appointed to value the land, and it was valued, and paid for, and a patent issued.

Mr. Murphy—Don't you think at that time the land was worth more than three dollars an acre, outside of homestead purposes?

A.—Well, I do not know, sir. It might have been. I believe that was the valuation put upon it.

Mr. Wilcox—Don't you think some promise must have been made to the Governor. As Mr. Williams states, he refused to sign his bill because he thought the promise was not in good faith, although he proposed to spend thousands of dollars on his property. Don't you think, then, there must have been an implied promise to make him sign your bill?

A.—I do not know, sir.

Q.—Don't you think there was?

A.—I could not say certainly. I was not here, and I know nothing about it.

Q.—Were you the owner of the high land with Mason at the time the bill passed through the Legislature?

A.—We did, as I told you; sold out conditionally to the association.

Q.—Then you took no interest whatever in the passage of the bill?

A.—I did not.

Q.—Did not care whether you made a sale of the land at all or not?

A.—Well, I could not say that. But I took no interest whatever in the passage of the bill. I was not here in Sacramento—I think not—that winter, if I recollect aright.

Q.—Was not your partner, Mason, here, during the whole session, lobbying for the bill.

A.—He was up here a portion of the time.

Q.—There are none of the parties who held stock in this so-called homestead association of yours, who have ever built a house on the property, or made any improvements?

A.—Yes, sir.

Q.—How many?

A.—I do not know how many. There are a number of buildings on it. I was surprised to hear Mr. Williams say there were two or three buildings there. There are ways there, and there would have been more buildings and improvements made. There would have been leveling done but for this bridge, for which we paid three thousand dollars; and it was with the express understanding that it should be left open, that there should be a draw put in in the channel, but it was closed up, and it prevented people from entering with their vessels. There were exertions made to try to get the draw put in. It ought to have been done; it was shutting off that portion of the tide lands.

Q.—I see from your testimony, Mr. Bensley, in eighteen hundred and sixty-nine-seventy, this question: "Do you know whether this association ever took any steps toward improving or reclaiming the land?" You answered, "There was some property sold on the shore of the bay to three parties, for building ways, and they intended to fill in, making extensive improvements," etc. Has there ever been any of the property sold since that time, except these three lots.

A.—There has been no filling in, excepting by some two or three parties that lived on the shore.

Q.—And even they have not made excavations from the high lands to bring down the earth?

A.—No, sir.

Q.—Your high lands remain intact as they were. They have never been disturbed?

A.—Well, very little.

Q.—Well, do you consider, in holding that land, that you gave the State a thorough remuneration for its property?

A.—Well, it was considered at the time that we gave a fair valuation. The land was worthless in its then condition. It has been appraised, within the last three months, by an expert in San Francisco, at from one thousand dollars to one thousand five hundred dollars a block.

Mr. Carson—How many acres are there to a block?

A.—About three acres.

Q.—And that is the price?

A.—Yes; but I think it is put too low. I think it is worth more than that.

Q.—How much more do you think it is worth than that?

A.—I do not know.

Q.—You say that estimate is low?

A.—I think it is.

Q.—How much is it lower than the actual value?

A.—I cannot say.

Mr. Wilcox—I see from your former testimony that the draw was not put in. Could you not have had that draw put in for the benefit of these parties, by paying for the right to put it there?

A.—Paying who for the right?

Q.—The railroad company, to cause them to put it in?

A.—We could have had it put in by paying a further sum.

Q.—How much would that be?

A.—It would depend upon the kind of draw put in—probably from three to five thousand dollars. But they did agree to put in a draw, and we supposed they would do so. We paid this money, as I said before, to help that improvement—the railroad—through, and it was with the express understanding that they should put in a draw. If we had put in that draw, of course, we would have been to the expense of keeping a man there for all time, for the benefit of the railroad company. It was their duty to do it.

Q.—Did the effect of not putting a draw there retard the improvement?

A.—Yes, sir.

Q.—You say you had an agreement with the railroad company?

A.—It was not in writing. It was implied. I think it was not in writing. I am not certain about that.

Q.—Did the Central Pacific Railroad Company ever ask, through its representatives, to purchase any property from you—from that one hundred and fifty acres?

A.—They did of Mason, but not of me.

Q.—What did Mason ask them a block for it?

A.—I do not know.

Q.—Did he ask three thousand dollars?

A.—I think more.

Q.—Did he ask five thousand dollars?

A.—I think more than that.

Q.—Did he ask ten thousand dollars?

A.—I do not know, sir.

Q.—That included the land got from the State?

A.—Not all of it.

Q.—A portion?

A.—It included, I think, a part of four blocks.

Q.—Of the upland or the low land?

A.—The low land.

Q.—How many years after you got this grant from the State was it that the railroad company made this application?

A.—I am not certain. I think eight or ten years.

Q.—A couple of years ago, then?

A.—I think so.

Mr. Harding—Who were interested in this hundred acres of upland at the time you solicited this grant from the State, besides yourself?

A.—Mr. James Whitney, Jr., Mr. Hayward.

Q.—Alvinza Hayward?

A.—Yes, Alvinza Hayward. I am not certain, either, that he was at that time.

Q.—Any others?

A.—There were one or two others.

Q.—Who were they?

A.—Mr. Sweezy, do you recollect?

Mr. Sweezy—I think that memorandum I handed to the clerk gives some names; I am not sure.

Mr. Harding—How much had you actually paid for this hundred acres of upland at the time you solicited the grant?

A.—How much?

Q.—Yes; how much?

A.—We bought the land in eighteen hundred and fifty-three, and I disremember the price we paid for it then; but we expended considerable money on it in fencing it. It had cost us probably twenty thousand dollars, and perhaps twenty-five thousand dollars; and I think more than that. I think more than twenty-five thousand dollars.

Mr. Wilcox—Was not Mr. Charles Low interested?

A.—Charles Low? Yes.

Q.—A brother of Governor Low?

A.—Yes.

Q.—Governor Low was in office at the time you got the bill passed?

A.—I think he was.

Mr. Harding—Do you remember what interest Mr. Low had in the property, or was to have in the grant?

A.—I think it was a tenth or twelfth; I am not positive about that.

Q.—What inducement did you hold out to the Legislature, in your solicitation for that grant, to cause the Legislature to give you one hundred and fifty acres of land?

A.—I held out none whatever.

Q.—Who solicited the Legislature to make the grant?

A.—I cannot say, sir. Mason, as I said before, was there.

Q.—Did the State voluntarily thrust this grant upon you?

A.—I imagine not.

Q.—Well, do you know who solicited it? Who prepared the bill by which this land was granted to you, and who pressed it through the Legislature?

A.—I do not. Probably I knew at the time who prepared the bill, and I know Mason was up here a portion of the time.

Q.—Did he have charge of the matter?

A.—Well, I do not know that he had particular charge of it.

Q.—You do not know who had charge of it?

A.—The Trustees, of course, felt an interest in it—all of them.

Q.—You do not remember what inducement you held out to the State for the grant of that land?

A.—I held out none whatever.

Q.—Did any of the members of the association?

A.—Not to my knowledge.

Mr. Carson—If I understood you rightly, Bensley, yourself and some other gentlemen were the owners, in eighteen hundred and sixty-three-four, of this tract of upland of one hundred acres?

A.—Yes.

Q.—At that time was the Golden City Homestead Association in existence?

A.—It was.

Q.—How long had it been in existence?

A.—Since eighteen hundred and sixty-four. I think some time in eighteen hundred and sixty-four. I do not recollect the date.

Q.—Do you remember the date of the Act?

A.—I do not.

Q.—How long before the passage of the Act had the Golden City Homestead Association been in existence?

A.—That I disremember.

Q.—Was it a year?

A.—I think not.

Q.—Who organized the Golden City Homestead Association, if you know?

A.—The Secretary can tell you better than I can.

Q.—Were you a member of that association at the time of its organization?

A.—I was not.

Q.—Nor Mason?

A.—No, sir.

Q.—Nor Low?

A.—No, sir.

Q.—Were any of the owners of the uplands, that you have spoken of, members of the Golden City Homestead Association?

A.—They were not.

Q.—Did you ever, at any time afterwards, become a member of the association?

A.—No, sir.

Q.—Did you ever own any stock in that association?

A.—I did.

Q.—Perhaps, then, you draw a distinction between a member of the association and an owner of stock?

A.—Oh, yes—a member of the association. I see. I beg your pardon. I thought you asked me if I was a trustee. I had five shares.

Q.—At the organization?

A.—Yes, sir.

Q.—We will go back to the organization, then. You were one of the original owners?

A.—Yes, sir.

Q.—And you owned five shares?

A.—Yes, sir.

Q.—How many shares were in the corporation?

A.—I think there were five hundred. Was not there, Mr. Sweezy?

Mr. Sweezy—Yes, sir.

Witness—That book [Appendix to Senate Journal, 1869-70] will give the information.

Mr. Carson—I ask you for information—to acquaint myself with the details. How many shares did Mason own?

A.—Five.

Q.—How many did Low own?

A.—Five shares. Was it not, Mr. Sweezy?

Mr. Sweezy—I do not know, sir.

Witness—Well, I won't say.

Mr. Carson—Did you at any time afterwards acquire any other shares.

A.—I did.

Q.—About what number?

A.—I do not remember.

Q.—Did you acquire one hundred shares?

A.—I do not remember.

Q.—Cannot you approximate?

A.—I cannot.

Q.—From whom did you purchase any shares?

A.—I do not recollect.

Q.—How long after the organization of the corporation did you acquire any shares in addition to the five you then held?

A.—It was some time. I disremember.

Q.—Was it before or after the passage of this Act?

A.—I think it was after, but I am not certain about that.

Q.—How long after?

A.—I cannot say.

Q.—I wish you now to just tax your recollection, and give us as closely as you can the number of shares that you purchased at any time in that association.

A.—I cannot remember.

Q.—Well, we will go back a little bit further again. When this homestead association was formed, you say you owned five shares?

A.—I did.

Q.—Had you, or not, at that time any other shares standing in the names of other persons?

A.—I think not.

Q.—Had you any?

A.—I do not recollect; but according to the best of my recollection I had not.

Q.—Might you not have had?

A.—I might have had. I do not recollect.

Q.—In whose names were those shares?

A.—I do not recollect.

Q.—About what number?

A.—I do not recollect.

Q.—But such might have been the case?

A.—It might have been.

Q.—Were ever any of those shares so held in the name of other people transferred to you?

A.—Please state that again.

Q.—Those shares of stock that really belonged to you at the time of the organization, or afterwards, but held in the name of other people—were they ever transferred to you at any time?

A.—Well, I bought shares. I cannot say when, or how many.

Q.—What was the par value of those shares?

A.—Well, there were five hundred shares. It would be two hundred dollars I think.

Q.—What did you pay for your first five shares?

A.—Well, I paid on my shares—what was the assessment, Mr. Sweezy?

Mr. Sweezy—The installments were ten dollars a month until the full par value was received.

Mr. Carson [to Mr. Sweezy]—Was two hundred dollars the par value?

A.—Two hundred dollars in installments of ten dollars a month.

Mr. Carson [to witness]—Did you continue to contribute and pay to the association the ten dollars a month.

A.—I did.

Q.—On your five shares?

A.—I did.

Q.—Did you or not pay the installments on any other shares that did not stand in your name?

A.—Not to my recollection.

Q.—Will the books of the association, if you know, disclose who were the owners of all the shares in the association?

A.—I presume they do.

Q.—Did you ever hold any office in the association?

A.—I did not.

Q.—Where are those books now?

A.—They were left here in eighteen hundred and seventy. They were missing the day after the investigation. The secretary never could get them.

Mr. Wilcox—Did you make application to the Secretary of State for them?

A.—We made diligent search here. Mr. Haymond was our attorney at the investigation, and he made search for us, and he can state whether he asked the Secretary of State for them. I will ask you, Mr. Haymond, if you did.

Senator Haymond—I do not remember about that now.

Mr. Wilcox [to witness]—Inquiry was made at the Secretary of State's office, where all documents of that kind go.

A.—I think he inquired there, and there was diligent search made for them.

Mr. Carson—I see from this contract, or rather report, presented by Mr. Sweezy, and dated January fifteenth, eighteen hundred and sixty-four, that Thad. L. Brooks, L. Bruner, and Charles Elliott, a committee from your association, reported a purchase from you and Mason, as the principal owners of this upland. Do you know how many shares Thad. Brooks owned?

A.—I do not. I think five.

Q.—Did not these shares belong to you really?

A.—No, sir.

Q.—Do you swear positively to that?

A.—According to the best of my knowledge, they did not.

Q.—Did either of these other gentlemen, Bruner or Elliott, hold in their names any stock that really belonged to you?

A.—I think not. That is my impression.

Q.—They might have so held stock?

A.—It is possible they might. It is my impression they did not.

Q.—How long before this Act was passed had Low become an owner in the upland?

A.—I disremember.

Q.—Was it a year before it?

A.—I do not know.

Q.—How did you divide your payments for taxes, fences, and so on, among the owners of that land?

A.—I do not know how to answer that question.

Q.—For instance, yourself, Mason, Low, and a number of others owned interest in these hundred acres. The taxes must have been paid every year, I presume. Were they or not?

A.—The taxes were paid, I suppose, every year.

Q.—By whom?

A.—By our association.

Q.—But before the association?

A.—Before the association was organized they were, of course, paid by the owners of the land.

Q.—Did you pay all the taxes on the entire one hundred acres yourself?

A.—Me?

Q.—Yes.

A.—No, sir.

Q.—Did Mason?

A.—He and I paid them when we owned, before we sold out to other parties?

Q.—Did Low buy from you?

A.—Do you mean from me, or me and Mason?

Q.—From you and Mason. Did you sell any interest in that land to Low?

A.—Yes, sir.

Q.—How much?

A.—I do not recollect. I believe I answered that before.

Q.—You do not recollect how many acres, or what interest he had?

A.—No, sir.

Q.—How much money did he pay you?

A.—That I do not remember.

Q.—Did he pay you any?

A.—I think he did.

Q.—How much?

A.—I do not recollect.

Q.—Will you say you think he paid you money?

A.—Yes, sir.

Q.—Are you in the habit of making conveyances of interest in lands to persons without money being absolutely paid to you, or some other valuable consideration being given to you?

A.—No, sir; I am not.

Q.—That is not your custom?

A.—No, sir.

Q.—Why, then, do you tell us you think he paid you?

A.—Because I do think so.

Q.—Do you know it?

A.—I am not particularly positive.

Q.—What?

A.—I think he did.

Q.—But did he?

A.—I believe he did.

Q.—You are not prepared to swear positively that he did, though?

A.—I would like to ask Mr. Sweezy.

Q.—I would like you to answer the question.

A.—Well, I could not say.

Q.—What?

A.—I am pretty positive that he did.

Q.—Did he pay you the then full market value of the lands you conveyed to him?

A.—I do not know what you would call the market value.

Q.—Was there any other consideration, as between you and Low, for the conveyance you made to him?

A.—There was not.

Q.—Were there any services promised to be rendered?

A.—There were not.

Q.—In any way?

A.—In any way.

Q.—For the consideration of this conveyance?

A.—No, sir.

Q.—Then you would have this committee to understand that you believe Low paid you for the lands you conveyed to him?

A.—Yes, sir.

Q.—That is positive?

A.—A portion. He may not have paid all at that time.

Q.—Did he subsequently pay it?

A.—I think the land was bought back from Low.

Q.—It was bought back?

A.—I think it was.

Q.—First you sold the land to Low, and you believe he paid you for it partly, only?

A.—Yes, sir.

Q.—A balance remained due you on the land?

A.—Well, I do not know whether he paid in full or not.

Q.—If he did not pay in full there remained a balance?

A.—Yes, sir.

Q.—Later, Low resold the land to you?

A.—I am not certain whether he sold it to me or not.

Q.—Well, to whom did he sell it?

A.—I am not certain.

Q.—Did he sell it to Mason?

A.—He may have sold it to Mason and me, or it may have been to the association. I do not recollect about that.

Q.—You do not remember whether the land was sold back to you, or to you and Mason, or to the association?

A.—I do not.

Q.—Do you know whether he sold it back at all?

A.—I do not.

Q.—Can you tell us anything of the figures?

A.—No, sir.

Q.—Was the property of this homestead association ever distributed?

A.—It was.

Q.—A lot to a share, I suppose; the usual custom?

A.—Two lots to a share: one of the upland and one of the low land; fifty by one hundred, and some seventy-five by one hundred. Each share carried two lots.

Q.—How long after the passage of this Act referred to did the distribution take place?

A.—I cannot answer that. The Secretary can tell you better than I can; but it was within two years. The property was distributed

within, I think, two years from the time of the organization of the company.

Q.—Are you and Mason partners?

A.—Well, we own some land interest together. We are not partners in any other respect.

Q.—You own lands in this tract together?

A.—We own other lands also.

Q.—Well, at the time of this distribution, you speak of, the lands of this association—of the property and the entire stock of the association—did you or Mason, or both together, own or have stock standing in your own name, or in the name of any other person for you?

A.—I disremember.

Q.—Did you own it all?

A.—I did not.

Q.—Did you own half of it?

A.—No, sir.

Q.—Did you own a quarter of it?

A.—Well, we might have owned a quarter, according to the best of my recollection. This was over twelve years, and my attention has not been drawn to it in that way. I do not think that question you have put was asked me before, and I have not thought of it; but my impression is, that the by-laws—one of the books that are here—provided that no shareholder should own more than five shares. Afterwards, I think, that was rescinded.

Q.—And increased to how many, if at all?

A.—That I do not recollect.

Q.—Do you hold in your own name up to the limit, whatever it may have been?

A.—I do not recollect.

Q.—My question was whether, at the time of the distribution, you owned so many shares? I want to find out how many you owned, either in your own name or in the name of any other person, for you or for Mason, or for you both jointly?

A.—How many?

Q.—Yes.

A.—I do not remember. I could not say.

Q.—Did any person at the time of the distribution hold in his or her name any shares of stock in that association for the account of yourself or Mason, or both of you?

A.—They might have done so.

Q.—Do you know it?

A.—I do not remember.

Q.—How many were so held, if any?

Q.—I do not recollect.

Q.—What was the name of the person that held them?

A.—I do not remember.

Q.—When you made this contract with the association for the sale of this land, did I understand rightly that there was a condition in the contract that the association should obtain from the State a grant of the one hundred and fifty acres of submerged land.

A.—I think there was a condition of that kind.

Q.—And it was upon that condition only that this one hundred thousand dollars was to be paid by the association to you and the other then owners?

A.—That is my impression.

Q.—Did the association pay that one hundred thousand dollars?

A.—They did.

Q.—In coin?

A.—In coin.

Q.—Did you or not render any assistance to the association in obtaining this grant?

A.—I did not.

Q.—Did Mason? You said, I think, you were not here at Sacramento, but you were in San Francisco.

A.—I was not here, and I do not know what Mason did.

Q.—Mason was your partner in this land?

A.—He was.

Q.—And is yet?

A.—Well, we are interested in lands together.

Q.—Did Mason, at that time, or has he at any time since rendered you any account of any moneys, shares of stock in that association, or any other property whatever expended by him in obtaining this grant?

A.—He has not.

Q.—Then you swear positively that the obtaining of this grant was at no expense whatever to you?

A.—To me?

Q.—You swear that positively?

A.—I do.

Q.—Do you know how many acres Mason owns to-day?

A.—I do not.

Q.—Do you and Mason hold this land together, or have you got a certain portion in your own name, and he in his, or does he hold for you, or you for him, or vice versa, any way?

A.—Well, on this tract he has some land distinct.

Q.—Upland?

A.—Yes, and I have some, and in some we are interested together.

Q.—How about the low land, the submerged land. Do you hold that distinct, or in common?

A.—I think we do. I am not certain about that.

Q.—What is the extent of your present interest in the entire property?

A.—I cannot say.

Q.—Is it one hundred acres?

A.—No, sir.

Q.—Is it fifty acres?

A.—Well, I would not say; it is in lots, and it is scattered all through.

Q.—Well, how many blocks?

A.—That I do not know.

Q.—How many blocks are there in the entire tract.

A.—I disremember.

Q.—Is the whole tract, upland and submerged, divided into blocks?

A.—It is, on paper.

Q.—For the purpose of distribution.

A.—Yes, sir.

Q.—Blocks of a similar size?

A.—Two hundred by four hundred feet.

Q.—Throughout the entire tract, is that so?

A.—Yes, sir.
 Q.—How many of these blocks have you in your own name?
 A.—I cannot tell you.
 Q.—How many stand in the name of Mason belonging to you?
 A.—I do not think there are any in his name belonging to me.
 Q.—How many stand in the name of Mason and yourself jointly?
 A.—I cannot tell you.
 Q.—Does anybody else beside Mason hold the legal title to any of that land for you?
 A.—Some of it is mortgaged.
 Q.—Mortgaged by you?
 A.—Yes, sir.
 Q.—To whom?
 A.—It is mortgaged to Flood and O'Brien.
 Q.—How many blocks?
 A.—I disremember how many there were.
 Q.—How much did you borrow?
 A.—Eighty thousand dollars.
 Q.—When did you borrow it?
 A.—Three or four months ago.
 Q.—When will that mortgage be due?
 A.—Any time I like to pay it.
 Q.—Can you state how many blocks you mortgaged to secure that?
 A.—I disremember.
 Q.—Twenty?
 A.—I disremember.
 Q.—Was it fifty?
 A.—I disremember.
 Q.—Was it one hundred?
 A.—It was not one hundred; neither was there fifty; I say it, but I do not remember.
 Q.—Were there ten?
 A.—I think there were.
 Q.—Were there five?
 A.—I think so.
 Q.—Were there twenty?
 A.—There may have been.
 Q.—Were there twenty-five?
 A.—Do you mean—
 Q.—I mean mortgaged to secure thus eighty thousand dollars?
 A.—I do not remember.
 Q.—Might there have been twenty-five?
 A.—There may have been.
 Q.—Might there have been thirty?
 A.—I do not know.
 Q.—Might there have been over thirty?
 A.—Not mine—that is, in my interest. I only own half interest in whole blocks; in some blocks a half interest in one lot, and there are many blocks in which I own no interest, which belong to other persons.
 Q.—What I want to arrive at is the extent of your interest in this tract, and now I will ask you with reference to the lands that you have mortgaged, was it a portion of the upland or the submerged land?
 A.—Both.

Q.—What proportion upland, and what submerged land?
 A.—I disremember.
 Q.—Is that mortgage recorded, if you know?
 A.—Oh, yes.
 Mr. Wilcox—We will have to get a certified copy from the records of the property he owns, and the taxes—
 The Witness—I can tell you the tax this past year. Not far from sixty thousand dollars the property was assessed at.
 Mr. Wilcox—On the whole property?
 A.—On what Mason and myself had there.
 Q.—You were assessed for sixty thousand dollars?
 A.—About that.
 Q.—And yet you borrowed eighty thousand dollars on your portion?
 A.—Yes.
 Q.—You say the assessment amounts to sixty thousand dollars?
 A.—I think it was assessed in the neighborhood of sixty thousand dollars. I think we paid taxes on that amount.
 Mr. Carson—Was this mortgage made by you alone, or by yourself and Mason?
 A.—Made by me.
 Mr. Wilcox—Mason could not be found in San Francisco. Do you know where he is?
 A.—He is at the Palace Hotel, sick. He has not been out of his room for several weeks. He is quite ill.
 At this stage the inquiry was adjourned till Wednesday, January twenty-sixth, eighteen hundred and seventy-six, and an order was made out for a copy of the mortgage mentioned by the witness Bensley.

WEDNESDAY, January 26th, 1876.

Present: Messrs. Wilcox (Chairman), Carson, Murphy of Del Norte, and Garretson.

C. B. PORTER sworn.

Mr. Wilcox—This is an investigation as to the manner in which the Golden City Homestead Association procured the passage of a bill through the Legislature during the session of eighteen hundred and sixty-three-four, by which they acquired the title to one hundred and fifty acres of tide and submerged land in San Francisco, under fraudulent representations to the Legislature; and you have been summoned as a witness in the case. Mr. Carson, will you take charge of the examination for me, please?

Mr. Carson [to witness]—Were you a member of the Legislature during that session?

Answer—I was.

Q.—Of which body, and from what county?

A.—I was a member of the Senate from the Tenth District, comprising the Counties of Contra Costa and Marin.

Q.—You have heard Mr. Wilcox's statement of the purpose of this examination?

A.—I have.

Q.—Do you know anything of the subject-matter referred to in his statement?

A.—I do.

Q.—Just state to the committee briefly what is within your own knowledge.

A.—I know very little more than is disclosed in the journals of the session—the Senate journal. I knew of the bills being in the House.

Q.—Which bills?

A.—Well, I associate several bills, but more especially the bill making the grant to the Golden City Homestead Association and the North Beach Homestead Association.

Q.—You refer to the North San Francisco Association?

A.—The North San Francisco Association. I knew of their being in the House, their coming to the Senate, and being referred to the committee of which I was a member.

Q.—What committee was that, sir?

A.—Commerce and Navigation.

Q.—You were Chairman of the committee at that time?

A.—Yes, sir.

Q.—Well, sir?

A.—Do you want me to detail the history?

Q.—I want you to detail the history so far as comes within your knowledge.

A.—The committee might be tired.

Q.—That is what we are paid for; just as you were in those days.

A.—Am I to be paid, too?

Q.—You will doubtless get your mileage, and your two dollars a day for your attendance.

A.—Well, I do not think the two dollars would be an inducement to me to protract my narrative very much. These bills had attracted my attention when in the House.

Q.—You refer to the North San Francisco and the Golden City?

A.—Yes, sir. I do not precisely remember the title of that association. Mr. Carson says it is the North San Francisco. I was under the impression that it was the North Beach.

Mr. Wilcox—I recollect. It is the North San Francisco. I was a member the same year.

Mr. Carson—We won't quarrel about the name.

A.—Both these bills, it was represented, were based upon the precedent of the grant to the South San Francisco Homestead Association the previous session, the policy of which I was always doubtful of, and perhaps more than ever doubtful of, seeing it was availed of by other bodies, who desired to get hold of submerged lands, as I thought, for speculative purposes.

Q.—Yes, sir; proceed if you please.

A.—I did not believe these bills would pass the Senate, and expressed such a belief, but a gentleman that I supposed knew more about the means that were employed in support of them than I did—he assured me that they would undoubtedly pass the Senate as well as the Assembly. The South San Francisco Homestead Association had made a second application that session for another grant. Their first grant having been out to six feet of water all around Hunter's Point, they had made a second application for a second grant to twelve feet of water, by a bill that had been referred and was in the hands of committee at the time.

Q.—Twelve feet in addition to the six feet they then had, or in all?

A.—Twelve feet of water in all.

Mr. Wilcox—That was South San Francisco?

A.—That was South San Francisco. That bill was pending in the committee at the time these other bills came into the Assembly, and were referred to it. I had already objected to Mr. Williams, who represented the South San Francisco Association, about the grant he asked for, and he represented that they desired this additional grant to enable them to build a stone dry-dock. I said to him, "Then you don't want for that purpose the submerged land to twelve feet of water all around this Hunter's Point?" Well, no, he said, he did not know they did for that particular purpose, but he thought the State might as well give it to him. I told him I objected to recognizing the merits of such an enterprise as he professed they were about to undertake; but I should be willing to give them sufficient land for the purpose, provided the title to the State should not pass until they had expended a sufficient amount of money and work to indicate their good faith, at least. Upon reflection, he said he would be satisfied with that, and consented that a substitute should be prepared and reported by the committee, limiting them, I think, to ten or fifteen acres.

Mr. Wilcox—Twelve acres. Twelve was the amount.

Witness—How do you ascertain that?

Mr. Wilcox—From Mr. Williams, himself.

Witness [continuing]—I have looked for the substitute. The substitute was mysteriously missing. The substitute was prepared and reported with the original bill, and the passage of the substitute recommended. A majority of the committee were rather favorably disposed to these other grants as they were asked, and as they were made in the bills that came from the Assembly. They would not consent to any amendment.

Mr. Carson—Who would not?

A.—The other members; at least a majority of the committee.

Q.—Of your committee you are speaking of now?

A.—I am; they would not consent to any amendments, but they recommended the passage of the bills by compromise; by an agreement that the bills should be reported without recommendation and that I should be at liberty to make my amendment to the Senate. These parties professing to desire them (these grants), for the purpose of reclamation, the improvement of their high lands by grading down, and the reclamation at the same time of the submerged lands, I had proposed to them that the grant should be made conditional, that the tract should be surveyed and subdivided by lines parallel with the shore, as they might choose, and upon their reclamation and grading to a certain mark above high water within one year, the title of the State to subdivision number one, might pass to them, and in like manner with subdivision number two on the expiration of two years, and so on with subdivisions three and four.

Q.—To what number?

A.—I think the proposal was to subdivide to five or six tracts. They had first professed to be willing to consent to some such condition, but subsequently, finding they could pass the bills, I presume—

Q.—You are speaking of the Golden City?

A.—Of the Golden City and North Beach—they were running together—and, as I suppose, they were able to pass the bills, as they were, they refused to have these conditions attached. I offered that

substitute in the Senate, and it was rejected. The bill was passed as, I believe, it now stands in the statute. Both bills were passed—both the Golden City and North San Francisco.

Mr. Wilcox—Did the Governor sign that bill of the South San Francisco Association for the reclamation of the land.

A.—No, sir.

Q.—Do you know any of the Governor's reasons for not signing it?

A.—The reasons he gave me were that it was for a second grant to the same association, and that it would be a precedent that others would demand should be applied to like cases; and he remarked to me then that if he had these two bills back again they should not have his signature at all. They had not been signed, perhaps, more than an hour. I may here remark, as part of the legislative history of the State, that when these bills came up on general file for consideration, being placed there either by order of the Senate, or having been made a special order—I forget which—the South San Francisco being first upon the file—when it came up the substitute that was reported by the committee was not to be found. It had mysteriously disappeared.

Q.—On that day?

A.—On that day it was not to be found?

Q.—When this matter was coming up on general file?

A.—The Secretary was unable to find the substitute.

Q.—What was the substitute that you refer to; can you give us the terms of it?

A.—The substitute was such as I have described—the substitute granting them twelve acres or ten acres more. *Mr. Wilcox* says twelve; I do not remember the specific number of acres; but it was to such depth of water as might be necessary, provided that they should not receive the title of the State for the land until they had expended, I think, two hundred thousand dollars for the construction of a stone dry dock. The reason, I presume, the substitute was stolen or concealed was that the parties interested in the other bills did not want the precedent to apply.

Q.—Which other bills?

A.—The Golden City and North San Francisco.

Q.—This is a mere presumption of yours, however?

A.—Yes, sir; a presumption.

Q.—Was the matter called to the attention of the Senate regarding the loss of this substitute?

A.—Of course it was called to the attention of the Senate, because I inquired as to the substitute. The Secretary looked for it, and professed to be unable to find it.

Q.—And did not find it?

A.—Did not find it. He was cited to the report upon the bill. The report upon the bill reported it back with a substitute. The substitute recommended for all after the enacting clause.

Q.—Did the Senate take immediate action upon the original bill then?

A.—They did.

Q.—And did not delay until the substitute could be found or replaced?

A.—The file was looked to for the substitute and could not be found. It was near the close of the session—a day or two before the close of the session. You all understand how things are done then.

There is not much time to be expended. The bill was only delayed while I drafted a brief amendment to the last section, providing that the title of the State should not pass until they had expended fifty thousand dollars.

Q.—You presented that amendment?

A.—I presented that amendment, and it was adopted.

Q.—It was adopted?

A.—I found that amendment in my handwriting. I looked at the archives to-day.

Q.—Is that part of the law to-day?

A.—That is part of the law in relation to the South San Francisco.

Q.—In reference to the Golden City?

A.—The bills passed as they came up.

Q.—Did you offer any amendment to the Golden City bill?

A.—I offered a substitute.

Q.—What became of it?

A.—It was rejected, and I cannot find it in the archives.

Q.—Do I understand you cannot find in the archives to-day the substitute then and there presented by you?

A.—I was unable to find it. I did not search myself, but the Secretary of State, or his assistant, failed to produce it.

Q.—Failed to produce it?

A.—His assistant found the original bill, but not the substitute.

Q.—Did I understand you to say the substitute was rejected at the time?

A.—The substitute was rejected.

Q.—Did the substitute provide the same conditions you had appended to the South San Francisco bill?

A.—Similar ones. I told you that the land should be subdivided, and that the title of the State should pass by subdivisions—by lines parallel to the shore—and that the title of the State should only pass on reclamation within one year of subdivision one, and subdivision number two in like manner within two years, and so on with the other subdivisions.

Mr. Wilcox—You were a member of the Senate at that time?

A.—Yes, sir.

Q.—You were Chairman of the Committee, I believe, on Commerce and Navigation?

A.—Yes, sir.

Q.—Will you please to state to the committee what your understanding was of the intention of the bill at the time it was presented to the Legislature, and the representations of the parties who held the high lands back of the submerged lands, to secure its passage.

[Question withdrawn.]

Mr. Carson—Will you be kind enough to tell us who the parties were that represented the Golden City Homestead Association in their application to the Legislature that you have just referred to.

A.—I do not know that I can give you anything but an impression.

Q.—Tell us, if you please, then, whoever addressed you on the subject personally.

A.—Well, absolutely, I could not say with any degree of positiveness. I do not know that Fred. Mason ever spoke to me, though I understood him to be one of the principal parties interested?

Q.—Did anybody ever speak to you about it?

A.—Yes.

Q.—Anybody representing himself to be a party interested directly in the land, or indirectly interested in the passage of this bill?

A.—I have no recollection that Mason ever spoke to me about it; nor have I any positive recollection that any one that I know to be identified with that association ever did, though I think that William Sherman—

Q.—William Sherman—of where?

A.—San Francisco; I think I received the impression, or had the knowledge at the time, that he was one of the parties interested, and I think that he spoke to me once. I have some recollection of his speaking to me at the State Library once.

Q.—Urging you in favor of the passage of the bill?

Q.—Yes, sir.

Q.—Anybody else?

A.—Well, I think that Ben. Dore was with him at the time. He, perhaps, spoke to me again, trying to overcome some of my objections—but I have no recollection of what he may have said—only a general recollection.

Q.—Did you understand either of these gentlemen were interested in the bill directly?

A.—I understood that Dore was interested in the North San Francisco bill.

Q.—And Sherman?

A.—My impression was that he was one of the parties interested in the Golden City.

Q.—Do you know whether or not the parties interested in the passage of the Golden City bill owned any uplands at that time?

A.—I do not know anything of my own knowledge.

Q.—Were any statements made to you concerning the ownership of any upland by the Golden City Homestead Association, or by any of the parties interested therein?

A.—Yes, representations were made.

Q.—What were they?

A.—Well, that the Golden City Homestead Association owned a tract of high land.

Q.—To what extent?

A.—Well, I could not say. It might have been an acre, ten acres, or a hundred acres.

Q.—They owned upland, however?

A.—They owned upland.

Q.—Well, sir, what further representations were made?

A.—That it was necessary they should grade that upland to make it available. They desired the opportunity to put it into the bay at the same time as they reclaimed the submerged lands.

Q.—Were any propositions made either to the Senate, or to the Committee on Commerce and Navigation, or to yourself, by way of condition that if this bill were passed, giving this Golden City Homestead Association the submerged lands mentioned in the bill, that the owners of the upland of the Golden City Homestead Association, or the parties desiring the passage of the bill, would so grade the upland and reclaim the submerged land?

A.—That was the general profession. That was the purpose for which they claimed to desire it, but they rejected the condition and so did the Senate.

Q.—The committee rejected?

A.—The committee, and the Senate, also, rejected propositions that would have obliged them to make that reclamation before they obtained the title.

Q.—You refer to the propositions you made yourself by way of substitute?

A.—Yes, sir.

Q.—Then are we to understand it was the impression, endeavored to be created in the minds of Senators at that time, that such grading and reclamation would be done were this bill passed?

A.—Undoubtedly, that was the impression that was sought to be created.

Q.—By whom?

A.—Why, by the parties representing these bills; and I can conceive of no legislator so shameless as to vote for a measure of that character, giving away absolutely the right of the State to these submerged lands, without some presumption that they were to be improved.

Q.—Were there any assurances of any kind, either to the Committee on Commerce and Navigation or to the Senate, to the effect you have just mentioned?

A.—No, sir; there were no assurances. There was nothing but professions. If there had been anything in the shape of assurances there would—

Q.—I mean verbal assurances by the parties seeking the passage of this bill?

A.—Well, there were verbal assurances; but that should not satisfy legislators. I tried to have these assurances assured in the shape of statute terms.

Q.—That, however, was the impression created upon you, or sought to be created on you.

A.—That was the profession upon which they were urging the bill. No doubt about that.

Q.—You assert that positively?

A.—Yes; no doubt about that. I do not presume that any man who was a member of the Legislature at that time, would have acknowledged that he voted for the bill on any other presumption.

Q.—You spoke, a little while ago, sir, rather indefinitely of means employed in passing this bill through the Assembly. Be kind enough to explain yourself?

A.—Well, there is a certain class of very indefinite statements that have a significance as great as though they were more definite, and this intimation was of that character.

Q.—What was the intimation?

A.—That the means employed to secure the passage of these bills were such as would be attended with success.

Q.—You will excuse me, but your answer is a little indefinite yet.

A.—It is true. It must be.

Q.—Will you be kind enough to specify a little further?

A.—Well, I would a little rather the committee would not press me upon that point, because, I presume, it would not be pleasant to the party to be brought into this matter.

Q.—Do you refer to the Republican or Democratic party; or what party?

A.—To the individual.

Q.—Oh, the individual?

A.—I do not know that this measure had any particular political character.

Mr. Carson—Mr. Chairman, I will leave it to the committee to determine whether Mr. Porter may be excused from further explaining his expression concerning the means employed to pass this measure through the House, or whether the committee shall insist upon an explanation.

The Witness—Let me say one word; that even if the committee judge it to be proper for me to answer with regard to this information, that they will get no definite information then; for what came to me, whether it was money, or whether it was political promises, or whether it was stock interests, or anything of that character, the party did not intimate it to me.

[The committee took a vote on the matter, and called upon the witness to give a full explanation.]

Witness [proceeding]—This intimation was in response to a remark I made in my confidence that the intelligence, and patriotism, and integrity of the Senate were sufficient to secure the defeat of these bills. I made the remark to B. B. Redding, Secretary of State. Mr. Redding says, "I am afraid your confidence is not warranted. You have no idea how well that thing is put up." Says he, "I hope you may be able to beat it; but I don't think you will be." Some months subsequently—it may have been a year afterwards—I saw Mr. Redding in San Francisco. Says he, "I can tell you something to make you laugh. There were two members of the last Legislature came down from Sacramento with me last night, and stopped at the hotel where I stopped, and this morning one of them came in and remarked to me, 'Isn't this hell?'" Redding says, "What is it?" "Why, this Golden City Homestead. Why," said he, "they gave me some of the stock this last winter."

Q.—This member said to Redding?

A.—To Redding, yes. "They gave me some of the stock last winter, and I thought I would see what it was worth."

Mr. Wilcox—This was pending the passage of the bill?

A.—No, afterwards. It may have been a year or nine months. It is my impression it was during the exhibition of the Mechanics' Fair, in eighteen hundred and sixty-four, but I am not positive about that. "Well, what did you find it was worth?" Redding asked. "Well, it is as much as it is worth to have that share of obligation in a hundred thousand dollar mortgage." Redding thought it a very good joke, and so did I. Of course, these parties were not anxious to retain the stock. There were heavy assessments on it to pay the interest on that mortgage.

Mr. Carson—Did Redding explain what they had done with the stock?

A.—No further. The inference was, that they would dispose of it to anybody who would take it. I think he remarked that probably the most of it would get back into Bensley & Mason's hands.

Q.—Was it explained to you at all from whom this stock was obtained by these gentlemen?

A.—No, sir.

Q.—Were these gentlemen that you refer to members of the Senate or the Assembly?

A.—I am not able to say.

Q.—Were their names given to you by Mr. Redding?

A.—No, sir.

Q.—Do you know anything further of any peculiar means that were employed in obtaining the passage of these bills?

A.—I do not.

Q.—You know nothing further?

A.—Nothing further.

Q.—This, then, is your explanation of the peculiar means employed?

A.—Yes, sir; that indicates the character.

Q.—The character of the means?

A.—Yes; the character of the means that I had intimated to me. I think Mr. Redding desired to see the bills defeated, but I think that he felt they were very likely to pass, from the character of the means and the manner in which the measures had been planned to secure their passage.

Q.—Did you ever have any conversation with the Governor during that session, about signing any of these bills?

A.—I think not, except on the occasion when I went over to him at Mr. Williams' request, to inform him of the circumstances under which the South San Francisco bill had been passed—that Mr. Williams had consented to these restrictions and conditions, and that the bill had passed without them, from the fact that the substitute was not at hand when it came up, and there was not time for other than the brief amendment requiring the title of the State to be withheld until fifty thousand dollars had been expended.

Q.—That was the only conversation you had with the Governor in reference to any of these bills?

A.—That is the only one I remember. I may have had other conversations with him respecting them.

Q.—Do you remember whether, in that or any other conversation with the Governor concerning this matter, learning from the Governor that he had refused to sign this bill—that is, the South San Francisco bill—but had signed the other one, that had become a law, and him saying to you that he had taken this course under the impression that the parties who had brought forward the bill that he had signed intended, in good faith, to make the improvements that they represented they would make, and that representations had been made to him which would justify him in signing it, whereas the other bill was an improper one.

A.—The Governor may have said something to that purport—that he believed the parties were intending in good faith to improve; but I have no distinct recollection. It is very likely that he did. His objection to signing the South San Francisco bill was that it was a second grant, and the precedent would be seized upon to justify like applications from these same homestead associations that had just received their first grant; and he remarked that, "If I had these bills back here they should not have my signature." They had been gone perhaps an hour, and been in the house thirty minutes.

Q.—Prior to that time?

A.—Prior to that time; and he said, at the same time, had the bill come to him with the provision in the substitute that was reported, and had been explained to him, he would have had no objections to signing it.

Q.—Did Redding explain to you the number of shares of stock in the Golden City Homestead Association that these two gentlemen, or either of them, obtained?

A.—No, sir.

Q.—Just mentioned, generally, a certain amount of stock?

A.—That they had some shares given to them.

Mr. Wilcox—When you were a Senator at that time, pending the discussion in relation to these bills, were not representations made to you by the parties seeking the passage of this measure, that, in the event of the bill passing, they owned certain high lands and required the submerged lands in the front to grade down to, and as a place to dump their dirt at, and that they would reclaim this land, and make an immense amount of taxable property to the State?

A.—These were the representations.

Q.—That were made to you?

A.—That were employed in behalf of the bill.

Q.—They used that argument all through the Legislature, in both houses?

A.—I do not know what argument they used in the Assembly.

Q.—Did they use that in the Senate, at any rate?

A.—Yes; these were the professions all the time.

Q.—That they proposed to make property, otherwise worthless, valuable?

A.—I had no confidence in the profession, from the fact that they were unwilling to make the condition.

Q.—Did not you make a proposal to the effect that the title should not pass until after the parties had complied with what you considered their agreement to the State?

A.—Yes, sir.

Q.—There were two bills passed by that same session. I would like to ask if you know anything in relation to another bill that was passed. The Golden City Homestead bill was approved April fourth, eighteen hundred and sixty-four. Another bill, approved April fourth, eighteen hundred and sixty-four, provides for the manner in which the homestead association should discharge their business. Do you know anything in relation to that?

A.—I have no recollection about that.

Q.—You know nothing about it?

A.—I have no recollection of it.

Mr. Carson—I would ask the Chairman to submit the statute to the witness?

Mr. Wilcox—Here is the law in relation to it: (Statutes of California, 1863-4, page 492, chapter 444,) "An Act supplementary to an Act relating to homestead corporations," etc. Section four [reads]: "It shall be lawful for the Trustees to call in and demand from the shareholders, respectively, all such sums of money by them subscribed, at such times and in such payments or installments as the articles of association shall prescribe, under the penalty of forfeiture, and the shares of stock subscribed for, and all deposits, assessments, and previous payments made thereon and towards the principal funds of the association, and the property acquired therewith and owned by the association, if payment shall not be made by the stockholder within ten days after a personal demand or notice requiring such payment shall have been published at least thirty days in a newspaper of general circulation in the said town or county where the office or principal place of business of such corporation is located, or in the newspaper published nearest to the place where the business of the company shall be carried on as aforesaid; but the articles of

incorporation may prescribe other penalties than such forfeiture, upon such failure to meet the payments of deposits, assessments, and installments in the case, as the provision shall govern, and may be legally enforced." That is the portion of it that applies to this case. Do you know anything in relation to that bill, which was passed and went hand in hand with this Golden City bill?

A.—I have no recollection of that.

Mr. Wilcox—The Chair will here state that that was a bill that went hand in hand with the other—that was carried through by the same parties, and was carried through to assist them in their swindle in relation to this matter.

Mr. Carson—Have you any proof of that?

Mr. Wilcox—I was a member of the Legislature at the time.

Mr. Carson—I will ask the Chairman if he knows that the same persons who were advocating the other bill were pressing this.

Mr. Wilcox—Yes; I know that from my own personal knowledge.

Mr. Wilcox [to witness]—Do you know Frederick Mason?

A.—Yes; I know him slightly.

Q.—He was here during that session?

A.—Yes, sir; he was about during that session.

Q.—Do you know where he boarded in Sacramento at that time?

A.—I do not.

Q.—Don't you know it was a notorious fact that he boarded at Governor Low's during that session?

A.—I may at the time, but I have forgotten it entirely.

Q.—Do you know Charles Low, brother of the Governor?

A.—I do, slightly.

Q.—Do you remember having seen him here during that session?

A.—I have no recollection of having seen him.

Q.—Do you know of his having been associated with this homestead association?

A.—I think I recollect of his having an interest in it.

Q.—You were on the Committee on Commerce and Navigation at that time?

A.—Yes, sir.

Q.—You opposed the bill?

A.—Yes, sir.

Q.—Your motives for opposing the bill were that you did not believe the parties were in good faith?

A.—I did not believe they were in good faith; and if I had believed they were in good faith, I did not favor the policy of the State disposing of the control of these submerged lands in San Francisco, because I thought they should all remain under State control for State purposes.

Q.—Do you not believe there was an implied contract between the State and these parties who procured these submerged lands, that they should perform certain obligations—such as to fill in the submerged land, and make that improvement?

A.—Yes; I thought it was an implied contract. It could not be supposed the State had any other motive. There was no reason in the world why the State should give them an absolute title to a portion of the submerged land, except upon some such presumption. Nevertheless, it would have been perfectly easy for the State to have expressed this condition in the statute.

Q.—Do you not believe other means were used for procuring the

passage of this bill—that is, that stocks were given out to different parties; is not that your opinion?

A.—It is very likely. I think I have received the impression that was so.

Q.—It is your opinion that was the case?

A.—Well, I do not know why it should not be.

Q.—I ask for a positive answer.

A.—I am as much of the opinion that that was so as I am on any opinion on matters on which I have no positive evidence.

Q.—And you believe, of course, stocks were given out?

A.—Stocks, or some inducement of the kind.

Q.—Are you acquainted with the land that was donated to these parties by the State?

A.—I think I am. I am not positive that I know precisely where its location is, but I am acquainted with that shore. I was engaged in ballasting there before we got ballast from Telegraph Hill, and when we got our ballast from Potrero and Mission Creek.

Q.—You have no personal knowledge of the present condition of the property?

A.—No, sir.

Q.—There is another question I wish to ask you. Of course, as a Senator, you constantly read the newspapers. Do you remember, when this bill was pending before the Legislature, certain prominent papers of San Francisco attacking the grant, and speaking of it as a fraud and swindle on the people?

A.—I do not recollect that distinctly.

Q.—Did not the *Bulletin* denounce it as the Green Kelp bill?

A.—That term has been applied by the newspapers to some claim, but whether to this one or not, I do not know.

EZEKIEL WILSON, sworn.

Mr. Wilcox—You were present at the session of the Legislature in eighteen hundred and sixty-three-four?

Answer—I was.

Q.—Have you any knowledge in relation to the Golden City Homestead Association—of the means by which the passage of their bill was then procured?

A.—Yes, sir; I have some knowledge of it.

Mr. Carson—You were not a member of the Legislature?

A.—No, sir.

Mr. Wilcox—Will you please to give us the full history, without any prevarication on your part, of that case, as you understand it, being well acquainted with all the facts in the case?

A.—There was a party of my friends. They owned land on the North Beach, between Government Island and Black Point. They wished to make some improvements there. They wanted to fill in, and to build a wharf and improve a wharf, and there was a bill of that kind incorporated (I have not the title) with the North San Francisco Homestead Association scheme. The bill was introduced in the Assembly, if I am not mistaken. There was no opposition to it, and there was a party came up from San Francisco and wanted to attach that bill to—

Mr. Carson—[Interrupting]—Ask the witness not to use the word parties?

Mr. Wilcox—Give us the names?

A.—I will name Mason as the principal man.

Q.—Frederick Mason?

A.—Frederick Mason is the principal. There were others who came to me about it, knowing I was taking an interest in the North San Francisco bill. I will name who the parties were who were interested in it. One of them has spent over fifty thousand dollars on the property—John Y. Wilson & Co.—for the reason that they wanted to get out there. They were packing meats on Mission Bay, and as it is some eight degrees colder on North Beach than Mission Bay, they wanted to move there. That was particularly why I took an interest in it, although I had stock. I owned some stock in it. A party came up—well, Fred. Mason; he was at the head. They had some low lands, and they wanted us to run together—perhaps you might say, joint action. They wanted the parties at work for the North San Francisco Association to work for the Golden City. I objected to it. I told the parties that the newspapers would attack the proposition, and I doubted that the Governor would sign it. It was asking for too much. I was given to understand that the North San Francisco bill would pass the Senate.

Mr. Carson—By whom?

A.—I am not positive. I was put in connection with him. I had known Mason for twenty odd years, but I was put in connection with him, as he had meant to labor for that enterprise.

Q.—What were you going to explain?

A.—That they would put the brakes on the North San Francisco bill, and that we should not pass the North San Francisco bill unless we would help them through with the Golden City.

Mr. Murphy—Put on the breaks—what do you mean by that?

A.—That they had influence enough—that they would influence members enough to defeat the North San Francisco, unless they could have the influence of the party that was at work for the North San Francisco.

Mr. Carson—In favor of the Golden City?

A.—Yes, sir.

Q.—Well?

A.—Well, they represented it to me as a legitimate enterprise—that they owned the upland—some hundred acres; I think it was a hundred acres, and it was hilly land, and not eligible for building purposes, unless it was graded. They could not grade it, unless they had a place to dump the earth and rock, and they told me that they would put in the upland for twenty thousand dollars.

Q.—How do you mean put in?

A.—Put into the association for twenty thousand dollars.

Q.—The then private owners?

A.—Yes; that they would appraise it at twenty thousand dollars.

Q.—Sell out to the association at that figure?

A.—Yes; and that I could have some stock in it. Well, I considered it a legitimate transaction, as I would in buying any real estate. I have dealt more or less in real estate for a number of years. I thought it a good enterprise, and I was certain the newspapers would attack it, although they did not attack it at this time. Our friends consented to assist them, and within one or two or three days the leading newspapers attacked it as a swindle; said the parties were about to steal—I do not know how much, but from one to three million dollars—from the State; but I did not believe it. I thought

the property was worthless at the time, and that if they would go on and improve the property, they would make it taxable property, and they passed the bill. I think it was in the night session, and if I am not mistaken, it was the second night before the adjournment. I know it was a very close fight. I know they won it by only one or two majority. Well, I agreed to take thirty thousand dollars in stock.

Mr. Wilcox—How much?

A.—I agreed to take thirty thousand dollars; but I was to be in on the bed-rock.

Mr. Carson—Be kind enough to explain.

A.—The property was to be put in at twenty thousand dollars, and I was to be put in at as low a figure as any one; that they had no advantage over me in the purchase of the property.

Q.—You were to become a member of the association at the extent of thirty thousand dollars par value.

A.—Yes, sir.

Q.—What was the whole of the capital stock?

A.—I do not recollect. This is some twelve years ago. It is a long time. I have done a great deal of business since then.

Q.—Well, about the bed-rock—explain that?

A.—Well, they told me the property was worth twenty thousand dollars, and that they would put it in and go on and make these improvements by grading the land, cutting it up into lots, and sell the property among ourselves, bidding for choice of lots—the same as they run all these homestead associations.

Q.—Well, what was the result of it all?

A.—Oh, after I went below I paid no attention.

Q.—You mean San Francisco?

A.—To San Francisco. Some days after—it might have been a week or ten days—I met John Martin, and he told me that they were not acting in good faith; that they had misrepresented to him; that they were going to put the property in at a hundred thousand dollars, instead of twenty thousand dollars. I said to him it must have been a mistake, for I had a positive understanding with Mason; and I went to Mason about it, and I did not get any satisfaction at all. I came to the conclusion that I was in with bad men—with men who were not truthful, and I drew out of it. I supposed if they would try to rob us eighty thousand dollars on the first turn, when they had control of the property, that they would freeze little fellows like me out.

Mr. Wilcox—That is the extent of your connection?

A.—That is all I know about it. I believed it to be a legitimate transaction, as much as in any real estate.

Q.—In the argument they used before the Legislature, they said they had certain high lands, and required these submerged lands to grade down and dump the dirt in, and so produce taxable property; was all that your understanding of the representations made to the Legislature?

A.—If we had not made these representations we could not have got three votes in either house. That was the argument used all the way through. By the way, the South San Francisco Association at this time had made quite a good many improvements on their property.

Mr. Carson—Which?

A.—The South San Francisco; and we represented that the North San Francisco would go on and improve, and that the Golden City

would go on and improve, using the same means as the South San Francisco were doing. Well, the North San Francisco has made quite a good many improvements there. There is one especially, that cost over fifty thousand dollars; and in the South San Francisco there must be at least one or two millions expended; and I do not think they have expended but very little on the Golden City. I have not been out there for perhaps a year. There might have been two or three little shanties there at that time.

Mr. Wilcox—You are well posted in real estate matters in San Francisco?

A.—Yes.

Q.—At the last time you were there, to your knowledge, had these parties, in compliance with the law or the representations made to the Legislature, filled up the submerged land, segregated their property, and distributed off any lots to bona fide holders?

A.—It looks to me in the same condition it was twenty years ago, with the exception of perhaps two or three—not over half a dozen—small houses. I cannot see that they have done any grading or filling in. It is perhaps twelve months since I was out there. I have gone out to what is known as Low Butcher Town, where I have two pieces of property.

Q.—You recognize that it was an implied contract between these parties and the State that this thing should be done?

A.—Most decidedly. We could not have got any votes for their proposition unless these representations had been made—that it should be put into homesteads, the property divided and improved. That was the argument used—that the property was worthless, bringing no revenue to the State; but that if they would go on and improve it, it would make taxable property.

Mr. Carson—Did you yourself make these representations to members of the Legislature?

A.—To all I knew.

Q.—You made these arguments?

A.—Yes, sir; so did Mason and all of them.

Q.—Did you use that argument and make these representations from your own knowledge?

A.—I believed it was their interest for them to act in good faith.

Q.—That is not the question.

A.—I believed they were telling the truth.

Q.—Did you know of your own knowledge these things would be done, and represent the fact to members of the Legislature?

A.—I could not have known of my own knowledge. It was matter in the future. I was assured they would do it, and believed it to be their interest to do it.

Q.—By whom?

A.—By Mason and others working for the proposition.

Q.—You refer to Frederick Mason?

A.—Frederick Mason, Benjamin Dore, and—well, I cannot remember. It is so long ago; some twelve years ago.

Q.—These, however, were the main points of your argument with members?

A.—Yes, sir.

Q.—Did Mason or Dore, or either of them, furnish you with these points?

A.—Certainly they did.

Q.—You did not know these arguments before?

A.—I knew them so far as related to the North San Francisco.

Q.—I am speaking of the Golden City.

A.—Yes; I understand you.

Q.—Did you know anything of these representations, or the arguments in that direction, until they were suggested by Mason or Dore, or somebody else?

A.—I knew nothing of the proposition until they came up here.

Q.—Explain how they furnished you with the argument?

A.—I cannot recollect who gave it to me. There was quite a large party advocating the measure. Charley Low's name was mentioned very freely with it. I did not believe the Governor would sign the bill at first. I was given to understand Charley Low had stock in it, but I did not suppose he would take stock, unless he knew what he was about.

Q.—By whom were you given to understand that?

A.—I cannot say positively, but I talked with Mason and his associates on the subject day after day. Mr. Porter was the strongest opponent we had, I recollect, in committee. He tried to amend the bill by having the title pass after they made the improvements. He opposed the bill strongly, and did not want the title to pass to this association until they had made certain improvements.

Q.—With whom did you make that stock arrangement you refer to?

A.—With Wm. B. Carr—that I was to have thirty thousand dollars worth of stock at the bed-rock price.

Q.—When you use this figure—twenty thousand dollars—do you mean to say you were only to pay twenty thousand dollars?

A.—No, sir; the association was to pay twenty thousand dollars to Mason and Bensley, the parties owning the upland. Then it was to be assessed, the stockholders of course to pay their proportion of the assessment, and go on and grade the land.

Q.—To cover the twenty thousand dollar purchase money?

A.—No, no. The twenty thousand dollars were to go to the parties owning the land.

Q.—Well, the association was to pay that?

A.—The association was to pay that, and I was to pay for my stock the same as any one else. I was not to get my stock without paying for it.

Q.—What I want to get at is this: You do not desire to leave the impression on the committee that the thirty thousand dollars worth of stock you speak about was to be procured by you for twenty thousand dollars cash? I simply want to make this clear on the record.

A.—Well, the capital stock was quite a good deal more than twenty thousand dollars, I do not recollect how much—the same as a mining company that will incorporate say for five millions. This was on the same principle.

Mr. Wilcox—Five hundred thousand dollars was reported.

Witness—I was to have thirty thousand dollars, whatever it was. I do not know the amount of the capital stock, but I was to pay my proportion of twenty thousand dollars.

Mr. Carson—That is, you were to pay so much for your thirty thousand dollars, par value of stock, in the same proportion that twenty thousand dollars was to the full amount of the capital stock. Is that the understanding?

A.—Yes, sir.

Q.—In other words, that the whole amount of the capital stock of the association was to be twenty thousand dollars cash, for the land of these two individuals, Bensley and Mason, and your thirty thousand dollars would be just that proportion that it bore to the whole amount of the capital stock?

A.—Yes; and then the property was to be assessed—the stockholders were to be assessed for these improvements that they proposed to make.

Q.—Did you ever pay any money on that stock?

A.—I did not.

Q.—Did you ever take the stock?

A.—I did not take it. When I learned they were going to charge one hundred thousand dollars instead of twenty thousand dollars, I did not take it.

Q.—What did you do about it?

A.—I let it remain just there.

Q.—Did you talk to anybody about it, and if so, to whom?

A.—I talked to Mason about it, at the time.

Q.—What was your conversation with him?

A.—I told him he had misrepresented to me and others; that he had acted in bad faith; I considered him a dishonest man, and all those sort of things. I cannot use the exact language.

Q.—Did you ever call at the office of the Golden City Homestead Association with reference to this stock?

A.—It was not at the regular office.

Q.—Did you call anywhere?

A.—I called at Montgomery Block; Mason had an office there, where he was in the habit of going. It was not until I had met Mr. Martin, and he told me they were going to charge one hundred thousand dollars.

Q.—Did you ever call at any office on the corner of Jackson and Montgomery?

A.—No, sir; I did not. I knew Mason was at the head of the concern, and I called on him, and I came to the conclusion that he was an untruthful man, and I could not get any satisfaction out of him.

Q.—Did Mason ever represent to you that he controlled Governor Low, on the proposition relative to these bills.

A.—I do not know that he did, but I was under the impression that Charlie Low was interested in the homestead association, or in this enterprise. I do not know who told me; but some of the party. There were perhaps ten or fifteen men working for the bill.

Q.—Can you mention their names?

A.—I will mention Frederick Mason, John Martin, Benjamin Dore.

Mr. Wilcox—Charley Low?

A.—I do not recollect of Low being here; I think he was, but I am not certain.

Mr. Carson—Can you name any other of the parties?

A.—I cannot recollect now. It is a long time ago—twelve years. Mason was considered at the head of the enterprise.

Mr. Murphy—Did you have any direct communication with Mason, either by word of mouth or otherwise?

A.—Often—every day; quite often, while the bill was pending in

the Senate. We had not any ease until the thing passed. It kept us busy.

Q.—Were any arguments used as to the increase in the revenue that would accrue to the State of California?

A.—Yes; that it would make taxable property. It was not paying anything.

Q.—Who was it made these representations?

A.—All the parties interested in the two bills.

Q.—Was this property represented to be worth twenty thousand dollars?

A.—The upland?

Q.—Yes?

A.—It was supposed to be worth in the neighborhood of twenty thousand dollars at that time, and by obtaining the tide land and improving it, it could be made very valuable. I understood there was a party that owned it that was willing to put it in, and would put it in at twenty thousand dollars to the homestead association.

Q.—Do you know of any of the parties in the interest of the bill representing to the members that it was a homestead for poor people?

A.—Oh, yes; the land would probably have been put in at one hundred and fifty dollars to two hundred dollars a lot, and any one could come in and buy it the same as in all homestead associations. The title of the bill showed that they intended it for a homestead.

Q.—Did you ever receive any compensation from Mason or others for your services in this matter?

A.—Not a cent. I never knew of any money being expended in it excepting what we spent ourselves upon incidental expenses. I never received any money or disbursed any.

Mr. Wilcox—You are satisfied the bill never could have passed the Legislature except for the representations made by these parties that it would make property taxable and valuable that was otherwise useless?

A.—It was the only argument; we could not have got any votes in either house unless that argument had been used.

Q.—And you considered it as a contract between the State and the parties getting this grant, that they would perform this condition?

A.—Quite so.

[The inquiry was at this stage adjourned until Friday evening, January twenty-eighth, eighteen hundred and seventy-six.]

FRIDAY EVENING, January 28th, 1876.

Produced in evidence:

First—Copy of mortgage made by John Bensley to the Nevada Bank of San Francisco, for eighty thousand dollars, made on the twenty-fourth day of November, eighteen hundred and seventy-five. [See Exhibit B.]

Second—Maps of the lands of the Golden City Homestead Association, colored to show the property belonging to Frederick Mason, John Bensley, Wm. P. Humphreys, and Mason & Bensley.

Third—Certified list from the Tax Collector's office, San Francisco, of the real estate embraced in the Golden City Homestead Association. [See Exhibit C.]

EDWARD F. BOYLE, sworn.

Mr. Carson—Did you hold any position in the Legislature of eighteen hundred and sixty-nine-seventy.

Answer—Yes.

Q.—State what?

A.—I was porter of the committee rooms.

Q.—In what position?

A.—I acted as Deputy Sergeant-at-Arms with Mr. Boise, of San Francisco, and served some papers in this case—subpœnaed some witnesses.

Q.—Were you clerk of any committee?

A.—No, sir; I had charge of the Judiciary rooms and the other rooms (nobody else could get into them, for I had the key) while this investigation was going on.

Q.—The investigation you refer to was that before the Senate in eighteen hundred and sixty-nine-seventy?

A.—Yes, sir.

Q.—You had exclusive charge of the room used by that investigating committee during that session?

A.—I had.

Q.—Who had charge of the papers, books, etc.?

A.—They was left in that room, with instructions to me not to let anybody have them. I used to lock them up in a desk.

Q.—Do you know of any papers, books, and accounts relating or belonging to the Golden City Homestead Association?

A.—Yes, I seen them there.

Q.—Well, wait a moment—in the hands of that committee?

A.—Yes.

Q.—State, if you know, what became of these books and papers?

A.—Bensley came, and wanted to get into the room to look at the books, and I would not let him.

Q.—What Bensley?

A.—He is a large man. I do not know him. I only know him by reputation.

Mr. Harding—John Bensley?

A.—Yes. He is a large man. I know him when I see him. I think I saw him to-day.

Mr. Carson—Was he in town to-day?

A.—Yes, sir.

Q.—Well?

A.—I think it was Mr. Duffy, who—

Q.—Who was Mr. Duffy?

A.—Senator Duffy.

Q.—Was he a member of that committee?

A.—Yes.

Q.—Well?

A.—And I let Mr. Bensley in to look at the books; and I never seen them books.

Q.—We don't understand you?

A.—Well, after Bensley went out of the room I went in there and could not find the books.

Q.—What books do you refer to?

A.—Two small account books.

Q.—Of what, if you know?

A.—There were memorandums in them of land matters that did not interest me.

Q.—Do you know whether they were books of the Golden City Homestead Association?

A.—Yes, I seen that mark on them.

Q.—How do you mean—printed on them?

A.—No; marked on the inside. There were two account books of the Golden City Association.

Q.—Let us understand. Did Mr. Duffy tell you to allow Bensley to look at the books?

A.—I think Mr. Duffy told me to let Mr. Bensley in—or Mr. Pendegast; one of the two.

Q.—Were both of these gentlemen on that committee?

A.—Yes, sir; I think so.

Q.—Where was this room?

A.—It is where the Adjutant-General's office is.

Q.—Can you locate the time when this occurred?

A.—The date?

Q.—Yes.

A.—No, sir; I cannot.

Q.—Was it while the Legislature was in session?

A.—Yes.

Q.—Had this committee concluded its labors?

A.—I think they had, but I never paid no attention to it until several months after the Legislature adjourned. I was living at Woodland then, and Mr. Duffy wrote to me to know what became of the books of this land association.

Q.—Have you got that letter with you?

A.—No, sir; I paid no attention to it. I answered Mr. Duffy's letter, and told him that Bensley took them.

Q.—Well, now, sir, what time of the day was this when Bensley made this request to you?

A.—It was about two o'clock, I guess—two o'clock in the afternoon.

Q.—How long before that had the committee been in session?

A.—Well, a day or so before.

Q.—Had they been in session that day?

A.—No, sir.

Q.—Were there any other books or papers belonging to the Golden City Association then in the room under your charge?

A.—Yes, sir; there was a lot of papers there.

Q.—Records or papers of the association?

A.—Yes, sir.

Q.—State, if you know, what became of them.

A.—I cannot.

Q.—Well, then, we understand that at two o'clock in the afternoon Bensley was admitted by you to this room?

A.—Yes, sir; and I went in two or three times while he was sitting there looking over these books.

Q.—Did you see him when he came out of there?

A.—No, sir; I was in there about five minutes before he went out, and when I went back he was not there, and the books were not there.

Q.—Had anybody else been in the room?

A.—No, sir; because I had a key of the room. It was a spring-lock; and when he came out, it was locked.

Q.—Did you have the only key to that room?

A.—I had the only key that there was in the Senate to that room.

Q.—Then you would have us to understand that Mr. Duffy or Mr. Pendegast authorized you to admit Bensley to this room?

A.—Yes, sir.

Q.—For the purpose of examining these books?

A.—I won't be certain which one.

Q.—But it was to look at these books, papers, and accounts?

A.—Yes, sir.

Q.—How long did he remain in there?

A.—Some time.

Q.—Would it be close upon an hour?

A.—Yes, sir.

Q.—During that hour you were in and out of the room two or three times?

A.—Yes, sir.

Q.—And within five minutes after the last time you entered the room and left it, Bensley left?

A.—Yes, sir.

Q.—And that when, upon the expiration of these five minutes, you returned to the room Bensley was gone?

A.—Yes, sir.

Q.—And those two books, particularly, that you refer to, were gone?

A.—Yes, sir; I know, because I kept them in a drawer in one of those desks where I kept a file of bills, and I had a key of that drawer.

Q.—Were any of the other papers gone?

A.—No, sir; I had all the papers there, and the books were not there.

Q.—Do you know what these books were?

A.—No, sir; except that they were a part of the books of the Golden City Association.

Q.—Do you know whether any other person than Bensley entered that room besides yourself during the hour he spent in there?

A.—I am certain that there did not.

Q.—That nobody did?

A.—Yes, sir.

Q.—Did you yourself carry away any of those books?

A.—No, sir.

Q.—Or any books or papers belonging to the Golden City Homestead Association?

A.—No, sir; I did not have any use for them.

Mr. Murphy—Do you know whether those books you have mentioned were used in the testimony before the committee?

A.—Yes, sir; they were.

Q.—Are you not mistaken about Mr. Duffy being a member of that committee?

A.—Well, I won't say whether Mr. Duffy was a member of that committee or not.

Q.—Mr. Duffy was a member of the Assembly at the same time I was a member.

A.—I think it was Pendegast. Mr. Duffy was there, and Mr. Duffy wrote to me afterwards to know about these books.

Mr. Harding—Let me ask you whether you say that either of these gentlemen—Mr. Duffy or Mr. Pendegast—instructed you to allow

Bensley to look at the books, or whether Bensley told you they had given him permission to look at them?

A.—Bensley came up to me in the hall, or was coming into the hall, and I spoke to him. I told him I could not admit him in the room, and he went off; and I won't be certain whether it was Pende-gast or Duffy who spoke to me.

Mr. Murphy—Are you certain it was either one of them?

A.—I am certain it was either one of them. I won't be certain which one. He said, "It is all right; you can admit Mr. Bensley."

Mr. Harding—Then you had your instructions from one of those gentlemen?

A.—Yes, sir.

Q.—Did you discover the absence of the books when you entered the room, after he left.

A.—Yes; ten minutes afterwards.

Q.—Did you make any inquiry?

A.—No, sir, I did not.

Mr. Carson—Did you report the loss to anybody?

A.—No, sir.

Mr. Harding—How long was it after the books had been taken from the room until you received this letter?

A.—It must have been at least five months.

Q.—Have you ever seen these books since?

A.—No, sir. I wrote to Mr. Duffy just exactly what I have said here. The last time I saw the books Bensley had them and was reading them—looking over the books—and he was the last man I saw have them.

Q.—You say he made application to you before that for admission to the room.

A.—Yes, sir.

Q.—And you refused him?

A.—Yes, sir; I would not let nobody in the room, because my instructions was not to let nobody in.

Mr. Carson—Did you see Bensley come out of that room?

A.—No, sir; I did not see him come out. I went into the Senate Chamber. I was not gone more than five or ten minutes when I came back.

Mr. Harding—Do you know whether the committee, at that time, had concluded their testimony?

A.—I think that they had. It was very near the end of the session. It was only a few days before the end of the session.

This concluded the testimony taken this evening.

A letter and a medical certificate were read stating that Frederick Mason was sick at the Palace Hotel, San Francisco, and would be unable for some days to answer the subpoena which had been served upon him.

Charles Low, who had been summoned, was also reported sick.

William B. Carr had neglected to comply with the summons served upon him.

The investigation was then adjourned until Monday evening, January thirty-first, eighteen hundred and seventy-six, at half-past seven o'clock.

WEDNESDAY, February 2d, 1876.

Present: Messrs. Wilcox (Chairman), Carson, Murphy of Del Norte, Harding, and Garretson.

B. B. REDDING called and sworn.

Mr. Wilcox—This is an investigation into the manner in which the Golden City Homestead Association procured the passage of a bill through the Legislature of eighteen hundred and sixty-three and four, by which they acquired the title to one hundred and fifty acres of land in San Francisco under fraudulent representations. You were Secretary of State at the time of the passage of the bill?

Answer—Yes, sir.

Q.—Please testify what you know in reference to the case?

A.—Well, sir, I can answer any question you may put. I know very little about it.

Q.—Do you remember the bill?

A.—Yes, sir; very well.

Q.—You remember one of the parties who were here to procure its passage—Fréderrick Mason, of San Francisco?

A.—I remember him.

Q.—Did you ever have any conversation with him?

A.—Never.

Q.—Do you remember the fact of his being around the Legislature to procure the passage of the bill?

A.—Yes, sir.

Q.—Do you remember any arguments he used to procure members to support the bill?

A.—I do not.

Q.—Did you ever have any conversation with any members of the Legislature, subsequent to the adjournment of that Legislature, in reference to the arguments used at its passage?

A.—I don't remember that I did.

Q.—Did you ever have any conversation with Mr. Porter—Senator Porter?

A.—I had a conversation with him several times during the passage of the bill. I remember that Mr. Porter was very much opposed, and always seemed to me to be the principal opponent of it.

Q.—Do you know any of the arguments that were used at that time to procure the State grant of this submerged land, and to fill it up for the benefit of the homestead association?

A.—Yes, sir; I remember that very well, because I had been one of the Commissioners previously appointed to estimate the value of the submerged lands that were given to the South San Francisco Homestead Association; and that association made the same kind of promises, and we gave them land. We awarded the land to them for a dollar and a quarter and two dollars an acre, upon the supposition that it was necessary for them to have the submerged land whereon to deposit the dirt taken from the high land, to make it available for the purposes of the association; and their failure to do that work as rapidly as promised convinced me that any more of those things that passed should be strictly guarded, to make them do the work; and I agreed with Senator Porter. The arguments they used in reference to it were that these lands were unavailable for their purposes, unless they had a place to deposit the dirt.

Q.—You had no doubt the members of the Legislature passed a bill

to donate this land—one hundred and fifty-three acres of land—simply from the representations they had made that they intended to fill up the submerged land, and make that land valuable?

A.—I can't say that.

Q.—From the representations made by the parties seeking the passage of this bill?

A.—No parties that I remember. I heard Mr. Mason talk about it. That was the theory upon which it was passed. What influenced the Legislature, is something I can't tell. No man could swear what influenced the Legislature when the law passed. I doubt if you could get behind it. You can't inquire why the Legislature passed the law.

Q.—I only asked the question, referring to the argument they used.

A.—The arguments I heard were that it was necessary to have this land—the submerged land—as a place to deposit the earth taken from the high land, so as to make it level and available for building purposes.

Q.—Of course, it was recognized as a contract between those parties, the procuring the land from the State?

A.—I can't say that.

Q.—What was your understanding of it at that time?

A.—My understanding?

Q.—Yes, sir.

A.—That they would do just as the San Francisco Homestead Association would do; get the land, and do as they pleased about grading it. I was entirely convinced that it would result just as it has.

Mr. Carson—You had a conversation with Senator Porter about this matter?

A.—Yes, sir.

Q.—Did you have any conversation with him at the time this bill was pending in the Senate?

A.—Yes, sir; I think several.

Q.—Did you ever use any such language as this to Mr. Porter—speaking of this bill—when he had expressed his confidence that the intelligence and uprightness of the Senate would be sufficient to secure its defeat: "I am afraid your confidence is not warranted; you have no idea how well that thing is put up?"

A.—Never used, as I remember, that exact expression.

Q.—What was the purport of your language?

A.—That I didn't believe the bill would be defeated in the Senate.

Q.—Did you express any reason why?

A.—There were too many people interested in it.

Q.—Did you refer to the manner in which the thing had been put up?

Q.—I referred to all the interests that I saw about the Legislature; that indefinite kind of something that anybody, who has been about the Legislature, can see—that floats in the atmosphere.

Q.—Did you use any such expression, or anything equivalent to it, that Mr. Porter didn't know how much the thing had been put up?

A.—I probably told him that I didn't think he was aware of all the means or appliances that were being used for the passage of this bill.

Q.—Did he say he was aware of it?

A.—I don't remember.

Q.—Were you aware of it?

A.—I could see it.

Q.—What were they?

A.—I could see that nearly every Senator and Assemblyman with whom I was acquainted had some friend about here that was urging the passage of that bill.

Q.—Is that all?

A.—That's all.

Q.—No other means or appliances?

A.—There may have been.

Q.—No other visible to the naked eye?

A.—Nothing tangible.

Q.—Some time after the adjournment of that session, did you meet Mr. Porter in San Francisco?

A.—Yes, sir; some months afterwards.

Q.—Where?

A.—Since I saw his testimony I have been trying to think whether it was at the American Exchange Hotel or at the Russ House. It was one or the other—I think the American Exchange.

Q.—When was that interview?

A.—I can't recall exactly.

Q.—How long after the adjournment of the session?

A.—Probably nine months or a year; I can't remember distinctly.

Q.—You had a conversation with him then and there?

A.—Yes, sir.

Q.—At one or the other of those hotels?

A.—Yes, sir; I think so.

Q.—Do you remember that conversation?

A.—Yes, sir.

Q.—Be kind enough to state it to the committee.

A.—I had gone to San Francisco with Francis Tukey.

Q.—Of Sacramento?

A.—Yes, sir; a member of the Legislature; this man and some other member, but who the other member was I can't now recall; but I remember there were two that stopped at the same hotel.

Q.—You can't fix the time of that any more definitely than nine months?

A.—Nine months or a year; a long time afterwards. The thing has gone from me—ten or twelve years ago. If not for a joke connected with it, it would be entirely gone from my mind; and in conversation with Mr. Tukey at the hotel, he said: "The boys have been well played on this Golden City Homestead."

Q.—"The boys!" Did you understand what he meant by "the boys?"

A.—Yes, sir; I understood him to mean all his friends—Senators and Assemblymen who had been about, working for the passage of the bill.

Q.—Who were the parties?

A.—Well, I don't know; I'm telling you what he said, and the idea conveyed to my mind.

Q.—By the use of the word "boys," he meant Senators and Assemblymen who had been friendly?

A.—No! no! "The boys had been well played" who had been urging the passage of that bill. By "the boys," I understood him to mean the lobby; those intimate friends of Senators and Assembly-

men; cousins and uncles; intimate friends. And I asked him, how? and he said Fred. Mason—no, he didn't say Fred. Mason—he said that those persons in the interest of the Golden City Homestead Association had distributed their stock in lots—or the stock—to the boys, very freely, who assisted them in obtaining the passage of the bill, and then had swindled them. I asked him, how? He said when it was known that the bill had passed, they put on the mortgage for, my recollection is, sixty thousand dollars; but it seems eighty thousand on the property; in other words, had mortgaged the property for more than it was worth; and when those persons who had obtained lots went into the market to sell, they found they could not sell, for the reason that the mortgage was for more than the value of the property; and therefore, "the boys had been played." He said he supposed the theory was, that after they had worried them out, that these men interested in the Golden City Homestead Association would have brokers to buy the thing up for a trifle; and then the mortgage would be released. I thought it was a capital joke, and knowing how much interest Mr. Porter felt in it, and how gratified he would be to learn the condition of things, the first opportunity afterwards, when I met him, I told him of it.

Q.—It was the same day of this conversation with Mr. Tukey that you had the conversation with him?

A.—I can't remember.

Q.—Pretty near the same time?

A.—I can't remember.

Q.—Did you mention to him that it was on that morning?

A.—It may have been; I can't recall. The probability is, it was about that time.

Q.—Do you remember either of these gentlemen saying to you, "Isn't this hell?"

A.—I guess Mr. Tukey said, "This is nearly hell."

Q.—And you inquired what it was?

A.—Well; something of that sort. I suppose that the story is fresher in Mr. Porter's mind than it is in mine.

Q.—And he said to you, "Why this Golden City Homestead—they gave me some of the stock this last winter."

A.—O! no. That is an error. Mr. Tukey was a very shrewd man, and if he had any stock he had too much sense to tell of it. He didn't tell that. He said they had "played the boys."

Q.—Did Mr. Tukey tell you that he had come to San Francisco to find out what that stock was worth?

A.—I think he did; for one of his friends who had stock.

Q.—Was it for the other gentleman?

A.—No; I think not.

Q.—This person whose name you don't remember?

A.—No; I think not. No—no—don't understand me to say that Mr. Tukey said he had any of the stock for himself.

Q.—Did you ask Mr. Tukey what he found the stock was worth?

A.—No; he told his story. I didn't want to inquire any further after he had told it.

Q.—Did you tell Mr. Porter that you had inquired what this Mr. Tukey had found the stock to be worth, or that Mr. Tukey stated what it was worth in his conversation with you?

A.—There was no necessity for inquiring. He said it was mortgaged for more than the value of the property, and therefore the lots,

or stock, or whatever they were, was worth as much less as the total value was beneath the mortgage. It didn't require any explanation, or any extended conversation, to ascertain those facts after he had told the story.

Q.—Did Mr. Tukey mention to you what his friends had done with that stock?

A.—No; he said he supposed that after a while they would get some broker to buy it in, after the mortgage was released.

Q.—Did you ever meet this friend of Mr. Tukey's?

A.—No.

Q.—Was his friend with him during any of these conversations?

A.—No, sir.

Q.—So that you don't know anything about the second party at all?

A.—No; that the friend of his had received some of this stock, lots of stock, for his services in assisting to obtain the passage of that bill.

Q.—Where is Mr. Tukey now?

A.—In heaven.

Q.—Do you know anything further, Mr. Redding, of any special means having been employed to obtain the passage of this bill?

A.—No, sir.

Q.—Nothing further?

A.—No, sir; I didn't favor the bill, therefore that knowledge wouldn't come to me.

Q.—Were you absolutely and directly engaged in endeavoring to obtain the defeat of this bill?

A.—No, sir; I was Secretary of State at the time, and I was very careful to have nothing to do with the Legislature.

Q.—You took no active part?

A.—No, sir; simply when I was talking about it, I expressed my opinion that it would go as the South San Francisco did; get the land, and then do as they thought proper.

Q.—Was Mr. Tukey a member of the Legislature at that particular time?

A.—During the passage, I think he was.

Q.—The last session?

A.—I think he was.

Q.—A member of the Senate or of the House?

A.—The Assembly.

Q.—You are positive he did not mention to you the name of the friend who had received the stock?

A.—Quite positive.

Q.—And that you never met, or learned in any way, the name of the friend that was with him on this visit?

A.—The friend with him was a member of the Legislature. If I might see a list of that session, and saw the name, it would probably come to me who that member was; but there was no conversation with him. My conversation was entirely with Mr. Tukey, another member of the Legislature, who went down to San Francisco on the same boat. I had no conversation with him in reference to it in any way.

Q.—It is simply to arrive at the name of that person?

A.—I don't know that he was there on that business. Simply two members of the Legislature going down—my recollection is, there was another, but my conversation was entirely with Mr. Tukey.

JOHN BENSLEY, recalled.

Mr. Carson—When you were last examined, you spoke something of a mortgage having been made in the latter part of last year to Flood & O'Brien, or the Nevada Bank?

Answer—Yes, sir.

Q.—For some eighty thousand dollars, in gold coin, securing a promissory note of that amount, and conveying as such security, certain lands comprised within the limits of this Golden City Homestead Association. I hold in my hand, and now present to you, a certified copy of that mortgage, certified by the County Recorder of San Francisco. Will you please look over that mortgage and state whether it comprises the lands so mortgaged and conveyed by you?

A.—I presume it does. It is hardly worth while to look over it, if you have a certified copy of the record. [Examines the certified copy.] I presume it is the same. It must be, if it is a copy of the record. I couldn't tell by reading this; but if it is a copy of the record, I presume it is correct.

Q.—According to this mortgage, Mr. Bensley, you have conveyed, to secure the payment of this eighty thousand dollars, an undivided one-half in sixty-nine parcels of land (I believe that is the number); sixty-nine different parcels of land?

A.—It may be sixty-nine, or more.

Q.—I will ask you to look at the mortgage?

A.—It would be useless for me. I couldn't tell by looking at that. If it is a copy—

Q. [Interrupting]—I should prefer to have you look at it, to satisfy yourself.

A.—I couldn't satisfy myself by looking at it. I presume that it is—it must be, if a copy of the record. I mortgaged my interest in that land to them, as I told you before.

Q.—Are we to understand from you now, that the interest you mortgaged in this land amounted to an undivided one-half part of all the tracts described in this mortgage?

A.—I intended to mortgage—to convey my interest in the land.

Q.—That is not an answer to the question. The mortgage itself says "the undivided one-half part?"

A.—Yes, sir.

Q.—I will read from the mortgage. "Grant, bargain, and sell, alien, release, convey, and confirm unto the said party of the second part, and to his successors and assigns forever, the undivided one-half part of all the hereinafter described parcels of land, and of land covered with water, situated in the City and County of San Francisco, State of California, and particularly and respectively described as follows:" Then follows the description in detail of sixty-nine pieces. Are we to understand that you intended to mortgage the undivided one-half part?

A.—I intended to mortgage my interest in that land.

Q.—Do you know, then, whether or not you owned the undivided one-half part of these parcels of land?

A.—I presume I do. If they are mortgaged I presume I did.

Q.—Are we to understand that you know so little about your own business that you are unable to tell this committee whether or not you own the undivided one-half of this land, or more or less?

A.—I wish you to understand that I intended to mortgage my interest in that land.

Q. That is not an answer to my question. The reporter will read my last question. [The reporter does so.]

A.—I intended, I presume, to mortgage my interest in that land, and all the land I had there; that was my intention.

Q.—What was the extent of your interest at the date of this mortgage?

A.—I believe a half interest in forty-two blocks—about forty-two blocks, taking the subdivisions—say sixty-nine of them. Some of those subdivisions are right in one lot, for instance, in a block, the quantity of land mortgaged. The other night, since I testified before, I have looked into that, and I find I can tell nearly. I don't know exactly the quantity, but it is about forty-two blocks; and there is in an acre forty-three thousand five hundred and sixty square feet; and there is eighty thousand feet in a block, which would be one acre and $\frac{111}{1000}$ of an acre in a block.

Mr. Harding—State that again, please?

A.—An acre of land is forty-three thousand five hundred and sixty square feet.

Q.—The fraction of an acre?

A.—It is $\frac{111}{1000}$. A little less than two acres in a block.

Mr. Carson—Then, sir, you had an undivided half of what is equivalent to forty-two blocks?

A.—I think so; about that; a little more or less.

Q.—Taking these sixty-nine subdivisions and shaping them into blocks?

A.—Yes, sir.

Q.—Would make forty-two blocks?

A.—About that.

Q.—You claim to mortgage here the undivided half of forty-two blocks.

A.—Yes, sir; I mortgaged my interest. I don't know whether it was forty-two; a little more or less.

Q.—That would make your interest somewhere in the neighborhood of forty acres?

A.—Not far from that.

Q.—At the time of the making of this mortgage, was that all your interest in the lands of the Golden City Homestead Association, whether those originally belonging to it, or those acquired by grant from the Legislature?

A.—State that question again please.

Q.—Did the mortgage cover all your interest?

A.—I intended to have it.

Q.—Do you know whether it did or not?

A.—I believe it did.

Q.—At the time this mortgage was made, who was the owner of the other half?

A.—Mr. Mason.

Q.—Do you own any other land in that Golden City Homestead Association besides that which was mortgaged?

A.—I do not.

Q.—Do you own any interest with Mr. Mason that was not included in that mortgage?

A.—In the association?

Q.—Either the upland or the submerged land?

A.—I have just told you I did not.

Q.—Do you own any land with Mason and Humphreys—William P. Humphreys—or either of them, not included in this mortgage?

A.—Not to my knowledge—not within the homestead—the tract so-called.

Q.—I present to you a certified list from the Tax Collector's office, San Francisco, and call your attention to a tract of land assessed to Mason & Bensley and William P. Humphreys, assessed in volume eight, page two hundred and twenty-three, block three hundred and and sixty-eight, subdivision two; "lot southeast corner of Yuba and Minnesota streets; thence south, fifty feet; east, one hundred feet; north, fifty feet; west, one hundred feet." Do you know anything of that?

A.—I do not.

Q.—Do you know whether the taxes were paid on them last year?

A.—I do not.

Q.—Did you pay the taxes on them?

A.—I don't know.

Mr. Carson—The paper I have just read from, is the certified list from the Tax Collector's office of all the real estate embraced within the Golden City Homestead, assessed in the name of Frederick Mason and John Bensley, and Mason & Bensley, assessed in San Francisco for the fiscal year eighteen hundred and seventy-five-six.

The Witness—I am not aware that I own any land with Mr. Humphreys.

Q.—Do you know anything of the assessed value of the sixty-nine subdivisions assessed to yourself and Mr. Mason; the assessed value for the fiscal year eighteen hundred and seventy-five-six?

A.—I testified that when I was here before—about sixty thousand dollars.

Q.—Would you credit the certificate of the Tax Collector, on that point, if it showed the tract eighty thousand seven hundred dollars?

A.—Well, of course, if you have the certificate, I presume that is correct.

Q.—I am speaking now of the land assessed to Mason & Bensley jointly, within the limits of the homestead.

A.—It may be. I stated before that I was not positive; but I think it was about sixty thousand dollars. That is my impression now. I don't think it was eighty thousand dollars. I think he must include some other lands. We had other lands on the Potrero.

Q.—You told us, on the former examination, that, at the outside, you owned only five shares of the capital stock of the Golden City Homestead Association.

A.—I did at first; that is all I had at first.

Q.—How did you acquire those five shares?

A.—I paid assessments on them as others did.

Q.—You claim to be an original subscriber?

A.—Yes, sir.

Q.—And paid your assessments as they fell due?

A.—Yes, sir.

Q.—On those particular five shares?

A.—I do.

Q.—Have you, since the former examination, refreshed your memory at all as to the manner in which you acquired any shares, subsequent to that time, in addition to those five?

A.—I have bought a number of shares after the property was

divided—not the shares, but the lots—yes, sir; I think I bought some shares.

Q.—From whom?

A.—I don't know who. The books you have here, I presume, will show—the books you had when I was examined before.

Q.—Have you refreshed your recollection, during this period, concerning any shares that were held by other persons in their names, in reality for your account?

A.—No; I have not.

Q.—Can you or not tell us whether Thaddeus Brooks—Thaddeus R. Brooks, or some name like that—ever held any shares in his name belonging to you?

A.—I don't think he did. He may have done so. I don't think he did.

Q.—Do you remember the committee that was appointed by the Golden City Homestead Association to make terms with you and Mr. Mason and others, as to the purchase of this land by the association?

A.—I don't know who they were. There was a committee appointed. I don't remember who they were. It is over twelve years ago.

Q.—Were you present at any meeting of the association, or its officers, when such committee, if any, reported concerning that purchase?

A.—Was I present at any meeting?

Q.—Yes, sir; when such committee reported?

A.—I don't think I was.

Q.—With whom did the Golden City Homestead Association, through its committee, negotiate for the purchase by the association of this land?

A.—Negotiated with the owners of the land. I don't recollect who they were—how many there were.

Q.—Did you take part in that negotiation as an owner of the land?

A.—I did.

Q.—Do you remember the parties acting on that occasion for the association?

A.—I do not.

Q.—Do you remember whether Thaddeus R. Brooks was one of the parties acting for the association in that negotiation?

A.—I don't remember.

Q.—Do you remember whether L. Bruner was one of the parties?

A.—I think he was, but I could not say positively.

Q.—Do you know a Mr. Charles Elliot, whether he was one of the parties?

A.—I think he was, but I could not say positively.

Q.—Do you know a Mr. Charles Elliot, whether he was one of the parties?

A.—I think he was, but I am not positive.

Q.—Were there any negotiations at all about this purchase, as a matter of fact, except between yourself and Mr. Mason?

A.—There was.

Q.—With whom?

A.—With the committee that was appointed.

Q.—Who were the committee?

A.—I have just told you I don't recollect their names.

Q.—What were the terms of the negotiation?

A.—The terms were—my impression is they were to pay twenty thousand dollars—ten thousand dollars down, I think, and two thousand dollars a month—but I am not positive about that. I stated in my other examination that I thought there was a condition, but I find, upon inquiry, that there was not. There was no condition in the sale.

Q.—Wasn't it five thousand dollars a month?

A.—Perhaps it was. I have not seen it. I presume you have there the report of the committee.

Q.—I have it in my hand.

A.—I haven't seen it since that time. I couldn't tell you anything about it.

Q.—Where did you see it at that time?

A.—I saw it upon the corner of Jackson and Montgomery streets. I think it was at the office of—

Q.—Whose office?

A.—The office of the Golden City Homestead Association.

Q.—Just look at that paper [handing the witness] and say whether it is the same one you speak of as having seen at that time?

A. [After reading]—Yes, sir.

Q.—Do you remember that paper?

A.—Yes, sir; I do.

Mr. Carson—I will state, Mr. Chairman, that this is a report of a committee of the Golden City Homestead Association, to ascertain the price and terms on which certain lands on the Potrero Nuevo could be obtained by the association. I will state it briefly. [Reads the report.] Signed by Thaddeus R. Brooks, L. Bruner, Charles Elliot, Committee, and dated January fifteenth, eighteen hundred and sixty-four.

Q.—Do you know whether either one of these gentlemen named as this committee ever, at any time, held any stock of that association in their names for your account?

A.—I do not think they did.

Q.—Do you know?

A.—It is my impression that they did not.

Q.—You don't know that either one of them did?

A.—I do not.

Q.—Did anybody else, ever, at any time, hold any stock of that association for your account?

A.—I think that after we changed—after the by-laws were changed, authorizing, or allowing more than five shares to be held—I think they may have done so; but I don't recollect who; I couldn't say.

Q.—What was that change in the by-laws?

A.—The by-laws first only authorized five shares.

Q.—Only allowed one person to hold five shares?

A.—Only allowed one person to hold five shares; but afterwards it was changed.

Q.—To what number?

A.—I don't recollect; to hold more. They were allowed to hold more, but I don't remember the number.

Mr. Murphy—Are those by-laws still on record in the office of the association?

A.—We have no office; no, sir.

Mr. Carson—Prior to the change in the by-laws, did any person hold any stock in the way that I have referred to?

A.—I have told you that I think they did not; that is my impression.

Q.—Well, after that time did any person hold any?

A.—They may have done so, but—

Q.—Well, who are the parties who may have done so?

A.—I do not recollect.

Q.—What was the number of shares that these parties may have held?

A.—I don't recollect. I can't recollect that; it is over twelve years; I have had no occasion to refer to it.

Q.—What was the largest number of shares of the capital stock of this association that you ever at any time owned?

A.—I couldn't tell you.

Q.—I present to you now a certified copy from the Secretary of State's office, of the articles of incorporation of the Golden City Homestead Association, and desire you to look at it. [Hands paper to witness, who examines it.] Did you know anything of the organization of this homestead association?

A.—Yes, sir.

Q.—What did you have to do with the organization?

A.—Well, I know that it was organized. I couldn't tell you exactly how much I had to do with it. I presume I had something to do with it.

Q.—Was it or not at the instigation of yourself and Mr. Mason, or either one of you, that this association was organized?

A.—I think it was. We were desirous of selling the land, and we decided to have it done in that way—to form an association.

Q.—This association was organized on the second day of January, eighteen hundred and sixty-four. Earl Bartlett, Charles Elliot, Samuel J. C. Sweezy, L. Bruner, J. Stock, and Thaddeus R. Brooks, were the incorporators. The Trustees named for the first three months, were Earl Bartlett, John Stock, Chas. Elliot, Thaddeus R. Brooks, E. N. Casey, Louis Bruner, Peter A. Giannini, Wm. Blackwood, and Samuel J. C. Sweezy. Do you know these gentlemen thus named; and, if so, which of them did you know at that time?

A.—I knew them all at that time.

Q.—Who designated these gentlemen that are named here as Trustees in this certificate of incorporation?

A.—I can't tell you.

Q.—Had you any suggestions to make in that regard?

A.—I had none to make.

Q.—Did you make any?

A.—I may have done so.

Q.—Do you remember whether you did or not?

A.—I presume I did.

Q.—Did you talk with any of the gentlemen just named here as Trustees, with reference to their being Trustees in this association?

A.—I presume I did.

Q.—With which of them?

A.—I can't recollect which.

Q.—Did you talk with Earl Bartlett?

A.—I think I must have talked with him.

Q.—John Stock?

A.—I don't recollect whether I did or not.

Q.—Charles Elliot?

A.—I don't recollect that.

Q.—Thaddeus R. Brooks?

A.—I presume I must have talked with them; but I can't recall to mind now.

Q.—Casey?

A.—I can answer in general terms that I don't recollect?

Q.—You don't recollect?

A.—No, sir.

Q.—You do recollect, however, having spoken to Bartlett?

A.—I say, I presume that I spoke with him, and with others. I don't think—I can't—

Q.—Did you speak with Blackwood or Sweezy?

A.—I presume I did; I don't recollect; very likely that I did.

Q.—Did you solicit them, in any way, to serve as Trustees of this association?

A.—I may have done so.

Q.—Did they seek the appointments or did you offer them to them?

A.—I can't tell; it is too long; the time is too long; I couldn't remember twelve years back, a conversation at that time.

Q.—Were you ever a Trustee of the Golden City Homestead Association?

A.—I was not.

Q.—Did you ever attend a meeting of the Trustees of that association?

A.—I did; I may have done so.

Q.—Were you ever present at any meeting?

A.—I think so.

Q.—At which meeting?

A.—I don't know.

Q.—Were you present at the meeting held on the thirteenth of January, eighteen hundred and sixty-four, when a committee was appointed to confer with you, as to the purchase of this land by the association?

A.—I think they had conferred with us before that meeting; that is my impression.

Q.—Were you present at that meeting?

A.—I may have been.

Q.—How many meetings of the Trustees of this association were you present at?

A.—It is impossible to tell.

Q.—Who was your attorney at that time in this matter?

A.—Mr. Shafter.

Q.—Where were the meetings of the Directors usually held?

A.—In the office.

Q.—Were any meetings held at Earl Bartlett's office?

A.—Not to my recollection.

Q.—Did you or not participate in discussions in the Board of Directors of this association with reference to the purchase of this land?

Q.—I may have done so; no, I don't think I did at any meeting.

Q.—It was simply—your discussions were with individual members of the Board of Trustees, then?

A.—I can't recollect. There must have been some discussions, of course, with them, or they wouldn't have bought the land.

Q.—Did Earl Bartlett ever subscribe and pay for (when I say pay, I mean out of his own pocket), and ever own stock in this association?

A.—I think he did.

Q.—Do you know?

A.—I am pretty sure he did.

Q.—As a matter of fact, did he not go into the association and serve as a Trustee at your request, holding your stock in his name?

A.—No.

Q.—You swear that positively?

A.—Yes, sir.

Q.—Now, consider, if you please, that I have put the same questions to you with reference to John Stock, Charles Elliot, Thaddeus R. Brooks, E. N. Casey, Louis Bruner, Peter A. Giannini, Wm. Blackwood, and Samuel I. C. Sweezy?

A.—I don't think that they ever held any stock for me, either of them.

Q.—I want your positive answer to that question.

A.—Well, according to the best of my recollection, they did not.

Q.—Will you swear positively that neither one of these gentlemen named as Trustee—

A.—No, I will not.

Q.—Ever at any time held any stock?

A.—According to the best of my recollection they did not.

Q.—Will you swear positively they did not?

A.—No; I will not swear positively they did not. I believe they did not; according to the best of my recollection they did not.

Q.—Now, as a matter of fact, didn't you solicit some of these gentlemen to come in and serve as Trustees of the association, and you would furnish the stock to make them members of the association?

A.—I have no recollection.

Q.—Will you swear positively that you did not?

A.—No; I swear to the best of my recollection.

Q.—Did you know Peter A. Giannini, at that time?

A.—Yes, sir.

Q.—Did you confer with him about being a Trustee of this association?

A.—I don't remember.

Q.—Did you know Wm. Blackwood, at that time?

A.—I did.

Q.—Did you confer with him on the subject?

A.—I may have done so.

Q.—Didn't you make such a proposition to him as I have mentioned?

A.—Not to my recollection.

Q.—Will you swear positively? Your recollection is extremely faulty.

A.—I can't help it; I don't pretend to recollect a matter of that kind.

Q.—Here is a corporation with simply five hundred shares, according to your certificate?

A.—Of two hundred dollars each.

Q.—You have admitted that you were one of the prime movers in the organization of this association?

A.—One of them; yes, sir.

Q.—Your name does not figure in the articles of incorporation. I am endeavoring to learn now, whether, in instigating the formation of this corporation, you did or not induce any one of these gentlemen to serve as Trustee of this association, and hold stock for you in his name? That is the point I want to get at.

A.—Yes, sir; I understand you. I have told you—

Q.—There were nine names there?

A.—I have told you three times.

Q.—Told me what?

A.—That according to my best recollection that they did not.

Q.—But you won't declare positively that you did not?

A.—I have told you as near as I can.

Q.—I am limiting it down to the nine names presented here. You have stated yourself that no one name could hold more than five shares, and I ask you if any one of these gentlemen held shares in that stock—in that association—for your account?

A.—I have told you—I have told you, according to the best of my recollection, they did not.

Q.—Did you ever buy any stock from Earl Bartlett in that association?

A.—I may have done so.

Q.—Do you know whether you did or not?

A.—I do not. I bought stock of several persons, and land.

Q.—Stock or lots of land distributed to the holders of that stock?

A.—I don't remember, sir.

Q.—Did you, at any time, buy any stock, or lots of land, in this association, distributed to the gentlemen as holders of that stock, from John Stock, Chas. Elliot, Thaddeus R. Brooks, Casey, Bruner, Giannini, Blackwood, or Sweezy, or either of them?

A.—I may have done so.

Q.—Which of them?

A.—I don't know. I say I don't remember.

Q.—To what extent?

A.—Well, I don't know that I can answer—according to the best of my knowledge—

Q.—Is it one block to each share, or how?

A.—Distributed in lots. I think it was one up-land and one water-lot.

Q.—To each share of stock?

A.—Yes, sir; to each share of stock. That is my impression.

Q.—That would make one thousand lots in the whole tract, up-land and submerged?

A.—Yes, sir.

Q.—You started out then with five shares of stock, if I understand you rightly, at the organization?

A.—I think that was the amount. That is my impression.

Q.—That would be the equivalent of ten lots?

A.—Yes.

Q.—Five upland and five of the submerged portion?

A.—Yes.

Q.—How many lots were in each block?

A.—I think there were thirty-two; that is my impression. I think some of the lots in the water were seventy-five feet—seventy-five by one hundred; and I think all of the upland were twenty-five by fifty.

Q.—The blocks were divided into thirty-two lots each?

A.—Well, that is my impression.

Q.—You started out at the inception of this association with five shares of stock, which was equivalent to ten lots—five upland and five of the submerged portion. You have testified here this evening that you are the owner, or were, on the twenty-fourth of November, eighteen hundred and seventy-five, of the undivided one-half part of forty-two blocks?

A.—About that.

Q.—Forty-two blocks, at thirty-two lots in a block, will amount to one thousand three hundred and forty-four lots. Your one-half, therefore, if we understand you correctly (if not, correct me), is equal to six hundred and seventy-two lots.

A.—It would be six hundred and seventy-two; I make it about that—I couldn't—I am not positive about there being forty-two blocks.

Q.—State, if you know, when, from whom, and at what prices you acquired the six hundred and sixty-two (672?) lots of land, or the shares of stock representing them, in addition to the ten shares that you originally owned—ten lots you originally owned?

A.—I don't remember.

Q.—Do any of these gentlemen named here as Trustees or incorporators of the Golden City Homestead Association own any of that land to-day?

A.—The record will show you that; I can't say.

Q.—Any of them to your knowledge?

A.—I don't know.

Q.—State, if you please, any of the other principal owners of this Golden City Homestead tract besides yourself and Mr. Mason.

A.—Well, there are a great many.

Q.—State some of them?

A.—I know some of them.

Q.—The committee would be glad to know the names of some of them?

A.—Mr. William H. Moore.

Q.—Do you know the extent of his ownership?

A.—I do not.

Q.—Any other names?

A.—He has quite a number though.

Q.—Do you know how many?

A.—No; I do not.

Q.—Where is Mr. Wm. H. Moore?

A.—I don't know where he is.

Q.—Does he belong in San Francisco?

A.—I don't know.

Q.—Do you know any other?

A.—B. P. Bruner.

Q.—Where does he belong?

A.—San Francisco.

Q.—What is business?

A.—He is an engineer.

Q.—Any others?

A.—I think that Wm. H. Taylor has some.

Q.—Is he also in San Francisco?

A.—Yes, sir.

Q.—What is his business?

A.—I don't know.

Q.—Anybody else?

A.—I think John B. Mason has some.

Q.—Who is he? Any relative of Frederick Mason?

A.—Yes, sir.

Q.—Where does he live?

A.—I think he is in Merced County.

Q.—Do you know the extent of his ownership?

A.—I do not.

Q.—Any others you think of?

A.—On Monday there was a man came (I don't know his name), into the office and inquired about this investigation. He said he had a number of lots there, and he wanted to know if he was going to lose them. I don't know his name. He said he owned them—I don't know.

Q.—Moore, Taylor, and Bruner are all the principal owners you can remember just now?

A.—Well, I don't know—they may have sold the lots—there are others.

Q.—State if you know whether Taylor, Moore, or Bruner acquired any of these lots from you or Mr. Mason.

A.—Mr. Moore was interested. He had a number of shares; I don't recollect how many.

Q.—Originally?

A.—Yes, sir.

Q.—How about Taylor?

A.—He had some too.

Q.—Bruner?

A.—I think not. I don't think he took any shares.

Q.—Did he acquire from you subsequently?

A.—Yes; I think he did.

Q.—To what extent?

A.—I think two lots; that is my impression.

Q.—Do you call a man owning two lots one of the principal owners?

A.—You can call it what you please.

Q.—I am asking you about the principal owners.

A.—I don't know he is a principal owner. I didn't understand you asked the question who were the principal owners? I thought you asked me who owned the lots?

Q.—I asked for the names of some of the principal owners besides yourself and Mr. Mason; and I now renew the question.

A.—There were other owners. I don't recollect who they were. The records will show you who owned the lots. I am not supposed to know.

Q.—How did Mr. Humphreys acquire an interest in this Golden City Homestead Association lands with you and Mr. Mason?

A.—I don't know. I didn't know that he had any. I was not aware of it.

Q.—You never made any conveyance to him?

A.—I don't remember of having done so. I don't recollect if I did. I may have done so.

Q.—In addition to the five shares you originally subscribed for,

how many additional shares of the stock in this homestead association did you ever, either directly or indirectly, pay for?

A.—That I could not answer. I don't know. I don't remember. It is so long ago that I couldn't remember.

Q.—Do you know of any stock of that association having been used or given to any person or persons for services rendered in obtaining the passage of what is known as the Golden City Homestead law?

A.—I do not.

Q.—Did you, at any time, know of any stock having been used in that way?

A.—I never did, sir.

Q.—Did you ever have any conference with Mr. Mason with reference to the disposition of stock of that association in that direction?

A.—There never was any conversation, to my knowledge, of that kind.

Q.—Did you ever have any conversations with Mr. Sweezy?

A.—Never.

Q.—In that regard?

A.—No, sir.

Q.—Do you remember any mortgage that was ever made by the association, of its land—perhaps I had better refer to an understanding that was had between the association and its stockholders, concerning the purchase of one hundred acres of uplands for twenty thousand dollars. Do you know anything of any such understanding?

A.—Yes, sir.

Q.—Tell the committee what you know about that?

A.—Well, they purchased the land in accordance with that document.

Q.—Prior to this document, what understanding, if any, was ever had with reference to the purchase of this land at twenty thousand dollars?

A.—There was no such understanding.

Q.—Did you ever have any such understanding, with any person, on that point?

A.—Never.

Q.—Did you confer with any person, with reference to the purchase of this land for twenty thousand dollars?

A.—No.

Q.—Are we to understand then, from you, that it was always understood that the price was to be one hundred thousand dollars?

A.—Yes, sir.

Q.—Do you know anything of any assurance having been given to the stockholders by yourself, Mr. Mason, or any officers of the association, that this upland should be purchased for twenty thousand dollars?

A.—No, sir.

Q.—Did you ever make any such assertion to anybody offering to subscribe for the stock?

A.—No, sir; I never did.

Mr. Carson—Mr. Chairman, I shall ask you to instruct Mr. Bensley to appear here this night week, at half-past seven o'clock, and we will give him from now till then to refresh his memory, and inform the

committee, at that time, if he knows how, from whom, when, and at what price he obtained the six hundred and sixty-two [should be 672] lots which he admits that he owned the twenty-fourth day of November, eighteen hundred and seventy-five, (or the equivalent of six hundred and sixty-two [672] lots), being in addition to the ten lots represented by his original five shares of stock. I make the motion that the committee command Mr. Bensley to that effect.

The Chairman—Is that your pleasure, gentlemen of the committee [the motion being seconded]? It is moved and seconded, that Mr. Bensley be required to appear and produce to this committee a detailed statement, in writing, on Wednesday evening next, at half-past seven o'clock.

The Witness—I have not stated that I owned six hundred and sixty-two lots; I merely stated that that was the number of lots.

Mr. Carson—Very well; I will modify it then, to the effect that he shall inform us of these facts, with reference to all the interest that he mortgaged to the Nevada Bank on the twenty-fourth of November, eighteen hundred and seventy-five, which is in addition to the ten lots representing five shares, which he originally held in the homestead association.

A.—I will give the statements as near as I can of the lots that I owned. I stated at the commencement that it was about forty-two blocks.

The above motion was put to the committee and carried, and at the instance of the Chairman, a transcript of the above requisition was made by the reporter and handed to Mr. Bensley.

Committee adjourned to February ninth, eighteen hundred and seventy-six, at seven o'clock and thirty minutes P. M.

WEDNESDAY, February 9th, 1876.

The committee met, pursuant to adjournment, at seven o'clock and thirty minutes P. M. Present, Mr. Wilcox (Chairman), Mr. Carson, Mr. Harding, Mr. Murphy, and Mr. Garretson.

Mr. Carson—Before proceeding any further, I would state that I have received a letter from W. P. Humphreys, who states that he had bought a small lot on the corner of Minnesota and York streets, in eighteen hundred and sixty-nine, from Johnny Meeks. That accounts for the manner in which he obtained the lot in question.

JOHN BENSLEY, recalled for further examination.

Mr. Carson—Mr. Bensley, at our last sitting you were instructed to report to-night to this committee a detailed written statement, verified by you under oath, showing how, from whom, when, and at what prices, if any, you obtained the six hundred and sixty-two lots which you admitted you owned on the twenty-fourth day of November, eighteen hundred and seventy-five, and were included in your mortgage to the Nevada Bank of that date, being the interest that you had in the lands mentioned in that mortgage, over and above the ten lots represented in your original five shares in the Golden City Homestead Association. Are you prepared to make that statement to the committee?

Answer—Yes, sir.

Q.—Have you it in writing?

A.—I have drawn up a statement as near as I could, with the assistance of Mr. Mason. [Produces statement, and hands same to Mr. Carson.]

Q.—That is your signature?

A.—Yes, sir.

Q.—You offer this under oath as your answer to that question?

A.—I do.

Mr. Carson [to the committee]—With your permission, I will read this.

[Reads the statement. See Exhibit D.]

Mr. Harding—I don't think that the latter portion of that statement is at all responsive to the question. I move that it be stricken out on that ground.

Mr. Carson—I second the motion to strike out that portion—that argumentative portion—the entire five subdivisions, to the end, commencing with subdivision letter A.

The motion was put and carried.

Mr. Carson—This, you claim, is your full answer to the inquiry propounded to you at the last meeting?

A.—Yes, sir.

Q.—This answer is not complete in some respects. As to the parties that you name here, you have not specified when, how, and for what prices, if any, you obtain these shares from these people?

A.—Well, I have stated that they were after distribution; I stated that we requested parties to take shares, with the understanding that we would take them off their hands if they didn't wish them at the price—two hundred dollars; that is evidently clear, that the shares cost two hundred dollars; each share, ten dollars a month, and the five hundred shares—that would be one hundred thousand dollars.

Q.—Well, you have mentioned here, among the parties from whom you purchased, the following: James McMeehan, F. W. Gill, F. D. Kellogg, Alfred Wheeler, Henry Watson, S. O. Putnam, Philo Wells, Edwin Davis, and F. Dumarthey. Now, when did you purchase from these gentlemen, or either of them?

A.—I don't recollect the date. The records, as I stated there, will show.

Q.—Was it before the distribution, or afterwards?

A.—Afterwards.

Q.—After the division was made to them?

A.—I think so.

Q.—What prices, if any, were paid these people?

A.—The prices that they cost; the prices that all the shares cost, which is two hundred dollars.

Q.—Had you not, you and Mr. Mason, or one or the other of you, jointly or singly, already paid for some of the shares of stock owned by these gentlemen?

A.—I think not.

Q.—Do you know?

A.—According to the best of my recollection, not.

Q.—Can you specify any of these names who had, out of their own funds, paid for shares of the stock that you received from them?

A.—I think those all did—the names there given, and others I don't—

Q.—You think, then, that all of these mentioned had paid for the shares of stock that they subsequently transferred to you out of their own funds?

A.—I think so.

Q.—Your manner of answering leaves the inference that there were other shareholders not in the same position in that regard as these people; is the committee to infer that from your answer?

A.—I don't understand your question.

Q.—You said that you believed that these gentlemen you have named here—these nine persons you have named here, had paid out of their own funds, for shares of stock, or lands awarded to those shares, prior to the transfer of the stock, or land, to you; you have stated that?

A.—Yes, sir.

Q.—Now, were there any other people besides these nine gentlemen, who had not paid out of their own funds for the stock, or lands, that were transferred to you, but for whom you had paid the money yourself?

A.—No, sir; not that I know of.

Q.—Not that you know of?

A.—No.

Q.—What are we to understand by that?

A.—That there were not, according to the best of my knowledge.

Q.—Would you have been likely to have known it, if such had been the case?

A.—I would, at the time.

Q.—Now?

A.—I don't remember. This is over twelve years ago. I don't think there were; I think there were not any. I believe I have answered that in that statement.

Q.—How many shares did you get from these nine people that you have mentioned here?

A.—I can't tell you how many there were. I don't remember how many there were.

Q.—Do you know whether these gentlemen—McMeehan, Gill, Kellogg, and so on, you have named here, held each more than the five shares originally allowed?

A.—I don't know how many they held.

Q.—You don't know?

A.—I do not. I know they held some. I don't know how many. That is a matter I have told you before, that I have not thought of for twelve years. I testified six years ago, but I don't know whether those questions were answered at that time.

Q.—Have these gentlemen—these nine gentlemen you have mentioned here—forfeited, or thrown up any of the shares, so that they reverted to you and Mr. Mason?

A.—They did not; as I have told you, that they took them with the understanding that if they did not wish to keep them, we would take them off their hands; and we did so.

Q.—The question I asked at the start was: Was it not the understanding with either of these nine people, or of any others, from whom you acquired shares, that they should take the shares and hold them for you in their names?

A.—No.

Q.—That was not the case in any instance?

A.—That was not the case. It was as I tell you.

Q.—Was that the case in any instance? Answer the question.

A.—I have answered it.

Q.—Was that the case in any instance?

A.—That was not the case; not a single instance, according to the best of my recollection.

Q.—How do you reconcile that answer with your former answer, which was to the effect that you had solicited some people to take part in this organization, to assist you and Mr. Mason in disposing of this land, and obtaining this grant?

A.—I don't know what you refer to.

Q.—On one of your former examinations, you testified that you had solicited some people (you could not specify who) to take a part in this organization; that you had promoted this organization, in fact, for the purpose of selling to it this upland and obtaining this grant from the Legislature, and that you had solicited certain people (you could not remember who) to take part in the organization. I ask you, now, how can you reconcile that answer, at your former examination, with the answer you have just made here?

A.—Do you refer to the Trustees when you say "organization"—persons who had taken an interest in the land?

Q.—Trustees must necessarily be stockholders, must they not?

A.—Yes, sir.

Q.—Very well; I will say Trustees, then?

A.—Well, it is very easy to solicit persons to take a part in it. Those that have taken these shares (as I have stated here) were solicited to take an interest in it, and with the understanding that if they didn't wish to keep the shares that we were to take them off their hands at the prices they had bought at.

Q.—What was the reason that you and Mr. Mason, and the other owners of this upland, didn't apply personally and directly to the Legislature for the grant of the submerged land?

A.—Well, at that time it was the day of homesteads, as you are aware; a great many homestead associations were framed, and I presume that we thought it would be—there had been some talk about purchasing this land for that purpose, and we thought it would be a good time to obtain it.

Q.—And so you preferred to organize the homestead association, and have it make the application?

A.—Well, we didn't organize the homestead association.

Q.—How do you mean?

A.—Mr. Mason and myself; I mean we did not.

Q.—Took no part in the organization of this homestead association?

A.—Of course we were anxious to have it.

Q.—You didn't organize directly, of course. When I say "organized," you and Mr. Mason promoted its organization—created it, in fact; the idea originated with you and Mr. Mason?

A.—I don't know whether it did or not; I presume it did.

Q.—And perhaps you had the idea that an application by a homestead association, a popular concern of that kind, would be more likely to succeed before the Legislature than one made by you and Mr. Mason personally?

A.—The others acting with us?

Q.—Yes.

A.—It is possible.
 Q.—You have spoken of one Low—Charles Low, isn't it?
 A.—Yes, sir; I spoke of him. I thought at the time he was interested, but I ascertained that he was not.
 Q.—You spoke of him as having been the owner of a tenth?
 A.—Yes, I did speak of him, but I found on inquiry that he was not.
 Q.—How much did he own then?
 A.—Well, he didn't own any.
 Q.—Did he not own any?
 A.—He did afterwards.
 Q.—What time?
 A.—For a time; and finally it was taken from him, and the money that he paid was paid back.
 Q.—How much did he own?
 A.—I don't remember how much.
 Q.—What time did he acquire it?
 A.—That I don't remember.
 Q.—From whom did he acquire it?
 A.—From the owners.
 Q.—Who were they?
 A.—I have stated the owners there.
 Q.—From whom directly; from yourself, for instance?
 A.—No, sir; from the owners of the land.
 Q.—When you say "the owners of the land," do you mean to include yourself?
 A.—Yes, sir.
 Q.—And Mr. Mason?
 A.—I do.
 Q.—And who else?
 A.—The parties stated in that statement.
 Q.—Then are we to understand that all the different owners of the land made a transfer to Mr. Low?
 A.—Well, I am not positive that a transfer was made. I told you before, I think, that I was not positive about that.
 Q.—Some sort of sale must have taken place; some transfer or conveyance?
 A.—I don't think there was.
 Q.—Then you would have us understand that Mr. Low never was an owner in the tract?
 A.—I would have you understand that he—I thought that he had taken an interest in it; but I don't believe it was transferred to him; and subsequently [consequently?] he didn't take it. I think that there was a contract or understanding that he might have an interest, but I don't think the deed was made to him; and the money that he paid, if he paid (and I think he did), was paid back to him.
 Q.—How much of that stock, or what was the extent of the interest that you either conveyed or were to convey?
 A.—I have told you several times that I don't remember.
 Q.—Did you and Mr. Mason agree to turn over to Mr. Low equal portions?
 A.—I can't tell.
 Q.—Did you ever have any conversation with Mr. Mason, or any of the other owners of that land, with reference to a transfer of a portion of this land to Mr. Low?

A.—I must have had, although I don't remember now what the conversation was.
 Q.—Did you ever have any conversation with Mr. Low concerning the transfer of any portion of this land to him?
 A.—If we sold to him, we did. We couldn't sell to him without.
 Q.—Did you ever receive any money from Mr. Low for the portion of the land that you formerly conveyed, or agreed to convey to him?
 A.—I have told you that I believe I did; but I am not positive about that.
 Q.—Can you tell us the entire amount that Mr. Low was to pay for the interest that he was to acquire, or did acquire?
 A.—No; I presume it was at the rate of one hundred thousand dollars, whatever interest he was to have—I presume so.
 Q.—Do you know that he ever paid any money?
 A.—No; I do not.
 Q.—Well, then, do you know that you ever paid any money back to Mr. Low?
 A.—I do not.
 Q.—Do you know that you ever re-acquired any of this land from Mr. Low?
 A.—I can't say that I did.
 Q.—Perhaps Mr. Low had nothing at all to do with that?
 A.—He may have had nothing to do with it. I told you at the other examination that I didn't know anything about it.
 Q.—You testified the other evening that Mr. Low owned a tenth?
 A.—I thought so. I was under the impression; I was not positive.
 Q.—Upon what did you base that impression?
 A.—Because we talked with him about it.
 Q.—About the tenth?
 A.—About the interest—I don't remember how much.
 Q.—When was this arrangement, if any, made with Mr. Low, with reference to the sale or transfer to him?
 A.—That I don't remember when it was.
 Q.—When was the arrangement made, with reference to the re-acquirement, by you gentlemen, of the interest of Mr. Low, if any?
 A.—That I don't remember.
 Q.—Can you fix either of the times I have mentioned, with reference to the date of the passage of the Act granting the submerged lands to the homestead association?
 A.—I cannot.
 Q.—Was the sale, or agreement for a sale, by you gentlemen to Mr. Low, before or after the passage of this Act?
 A.—I can't tell.
 Q.—Was the agreement between you gentlemen and Mr. Low, if any, for the acquirement by you of Mr. Low's interest, if any, before or after the passage of that Act?
 A.—I can't say.
 Q.—Do you know Mr. Low at all?
 A.—Yes, sir; I used to know him. I have not seen him for a year or two; I guess it is two years since I have seen him. You ask me to remember things that occurred several—twelve years ago—that I have not thought of.
 Q.—Twelve years ago. You have never thought of these things for twelve years. Didn't you think of them six years ago, when you were examined?

A.—That may have been.
 Q.—Have you not, since this investigation has started, read your testimony as reported in the Journal of the Assembly or Senate, six years ago?
 A.—No, sir.
 Q.—You have never looked at it?
 A.—I have not read it, sir.
 Q.—Did you ever look at it at all?
 A.—I have seen some portions of it.
 Q.—Where?
 A.—In manuscript that we have had a copy of?
 Q.—A copy of the reporter's notes of the testimony, as taken down by the short-hand reporter?
 A.—It is a copy. I don't know where it was done.
 Q.—How did you get that copy?
 A.—Paid for it.
 Q.—Paid whom?
 A.—Mr. Mason had it taken at the time, six years ago.
 Q.—How long since you looked at that manuscript testimony?
 A.—I think it was about the time of the first examination here.
 Q.—You were here some time during the session of eighteen hundred and sixty-nine and seventy, at the time of the previous investigation?
 A.—Yes, sir; I was here.
 Q.—You testified before a committee, did you not?
 A.—Yes, sir.
 Q.—You had some books of this association there at the time?
 A.—The committee had them.
 Q.—They were used in connection with your testimony?
 A.—They were used. I am sorry to say that we have not been able to find them since.
 Q.—You have mentioned that in your written statement, I believe?
 A.—Yes, sir.
 Q.—Was it in this building that you testified?
 A.—I think it was in the other part of the building.
 Q.—The other end of the hall?
 A.—The other end of the hall.
 Q.—After you had testified and been dismissed from further attendance upon the committee, did you at any time return to that room wherein you had testified before the committee?
 A.—I may have done so.
 Q.—For what purpose did you go there?
 A.—I went there—I think I went to that room—and I went into the Senate Chamber to inquire for those books.
 Q.—Which books?
 A.—The books that were left with the committee.
 Q.—What books and papers, do you remember?
 A.—They were—I don't know—they were books of the company connected with it. The Secretary brought them here, as requested, at that time, and they were delivered up to the committee, and since that time I have never seen them. I stated there in that—
 Q.—You say you did go to that room?
 A.—I think I did.
 Q.—Was anybody in charge of that room at the time you went there?

A.—There was a door-keeper there, but I don't remember his name.
 Q.—Would you remember him if you saw him—would you recognize him?
 A.—No; I don't think I would.
 Q.—Did you apply to him for admission to the room?
 A.—I don't remember of doing so.
 Q.—Did he not refuse you admission to the room?
 A.—Not that I remember. He may have done so.
 Q.—Did you go into the room?
 A.—I was in the room several times.
 Q.—After you had testified, did you ever go into the room?
 A.—I presume I did. I think I went in. I think I did go in and inquire for the books.
 Q.—From whom did you inquire?
 A.—That I can't say. I know that Mr. Haymond tried to find the books, and—
 Q.—Did you know of Mr. Duffy, who was connected with the Legislature at that time?
 A.—I did.
 Q.—Had you had any talk with him, about that time, concerning permission to be granted to you to examine these books and papers?
 A.—No, sir.
 Q.—Did you, after you went into the room?
 A.—I tried to—he made a search for them. I did not—I had forgotten—
 Q.—I am speaking of before the time you went into the room; had you a talk with him?
 A.—I think not. That is my recollection.
 Q.—Well, when you went into the room, how long did you remain?
 A.—I don't think I remained there five minutes?
 Q.—Did you not examine the books there—some books of this association? Did you see them there?
 A.—No, sir; not after the close of the examination?
 Q.—After the close of the examination of yourself. I am speaking now of your own examination?
 A.—Yes, sir.
 Q.—I don't know how much longer the investigation ran. Did you or not, examine certain books and papers in that room, on that occasion?
 A.—I don't know.
 Q.—Who was in the room with you?
 A.—I don't remember who was there.
 Q.—Was any body there?
 A.—I think there was.
 Q.—Who was there?
 A.—I can't say.
 Q.—Did any body pass in and out the room while you were there?
 A.—I don't remember. I think they did. I couldn't be positive who.
 Mr. Murphy—Was any one else in the room at the time you went in?
 A.—My impression is that there were other persons in the room.
 Mr. Harding—Do you remember the occasion of applying specially to go into the room, and did get permission, after some difficulty, to go into the room and remain there for some time alone?
 A.—No, sir.

Mr. Carson—Did you about that time have any conversation with Mr. Pendegast concerning permission being granted you to examine books and papers of this association?

A.—Not to my recollection. I asked Mr. Pendegast for the books. I don't think I asked him to examine the books.

Mr. Murphy—At the time you went in there did you discover the books were gone?

A.—At the time I refer to I was inquiring for the books.

Q.—What was the answer to your inquiries?

A.—They couldn't be found.

Q.—At that particular time?

A.—Yes, sir; and I think the man that was at the door—I think he went into the Senate Chamber.

Mr. Carson—Where were you at that time?

A.—In the hall. I went in with him to the Senate Chamber. He thought they were in a certain desk (I don't remember whose desk), but it was locked, and he couldn't find them.

Q.—How long was it after the close of your examination that you went into this room?

A.—I think it was the same day.

Q.—How much time had elapsed?

A.—That I can't say.

Q.—Was it an hour?

A.—I don't know. I think it was about the time that I was about to start below—to go below—but I—

Mr. Harding—Your only object in visiting the room was to find the books?

A.—That is all.

Q.—As soon as you found them missing you departed?

A.—I did.

Q.—Who assisted you in making the search?

A.—Well, Mr. Sweezy made inquiries also.

Mr. Carson—On this occasion, in the room—this particular time that you refer to?

A.—Well, I think the man at the door; I think I asked the man at the door.

Mr. Harding—To permit you to enter the room?

A.—I don't recollect of asking that I might enter the room, but to look at the books, and he then went to the Senate Chamber, and I went with him, according to the best of my recollection. He thought they might be left in a desk, and the desk was locked—couldn't find them. I think he said they would be found—they would be safe.

Q.—Did you go there more than once on that errand?

A.—I don't think I did.

Q.—Only once?

A.—I think not.

Mr. Murphy—Do you know a man by the name of Boyle?

A.—I heard him spoken of here; I saw his name as having testified, but I didn't recollect the name. I recollect that he was the man.

Mr. Harding—Have you read his testimony, or the substance of it.

A.—I read it in the papers; yes, sir.

Q.—You say you read his testimony in the newspapers?

A.—Yes, sir.

Q.—Did you recognize the person and the occasion—did you remember any of the facts that he testified in his testimony?

A.—He stated that I was in the room two hours.

Q.—Did you recognize, when you read his published testimony, any of the facts that were within your memory?

A.—Well, I recollected of inquiring for books, but I didn't recollect the name.

Q.—Was that the only portion of his testimony that you remembered?

A.—Yes, sir; that is, I believe.

Q.—You simply recollect of making the inquiry after the books, and you remember nothing about the time, the place, the conversation, or other facts connected with it, or who was present?

A.—I recollect of inquiring for the books. I don't recollect—

Q.—Anything else?

A.—No, sir. I know very well that I didn't remain there at the time.

Mr. Carson—When you came to the door of this room to be admitted where was this door-keeper.

A.—I think he was at the door.

Q.—Was the door open, or shut?

A.—That I don't remember.

Q.—Did he open the door for you?

A.—That I can't tell you—I don't remember.

Mr. Harding—You have never seen any of those books since?

A.—I have not.

Q.—Do you know where they are?

A.—I do not.

Q.—Have you ever heard any one state where they are?

A.—I have not.

Mr. Carson—This occasion you refer to as having visited this room was on the afternoon of the day you testified—it was immediately after your own examination—you were in a hurry to depart?

A.—I can't tell that. It may have been the next day.

Q.—What may have been the next day?

A.—When I made this inquiry; but my impression was that it was after I left, that afternoon, and that this was before leaving; still, it may have been the next day—the day following.

Q.—Do you know whether, or not, the investigation had been closed—that is, the taking of testimony had been closed?

Q.—Yes, sir.

Q.—When you applied to examine the books?

A.—Yes, sir; it had.

Q.—Do you know how many days the committee sat?

A.—I do not.

Mr. Harding—Did you make any further inquiry except this one inquiry to obtain the books?

A.—Yes, sir.

Q.—Personally—you had testified that the other evening?

A.—I recollect that I asked Mr. Duffy.

Q.—You testified that the other evening—no, no; you did not.

A.—No.

Mr. Murphy—Can you form any theory as to the loss of those books, in your own mind?

A.—I think the committee—

Q.—What was the object of the committee?

A.—I don't know what object they had in the investigation.

Mr. Harding—Did you ever make any other effort, other than inquiring of Mr. Duffy?

A.—Mr. Haymond. I requested him personally.

Mr. Carson—He was your attorney, was he not?

A.—Yes, sir; and I think he wrote me afterwards.

Q.—What did Mr. Haymond tell you?

A.—He couldn't find them.

Mr. Murphy—Were these books of any value to any one save the Golden City Homestead Association?

A.—No, sir; I think not.

Mr. Harding—They were important to the association, were they not?

A.—No, sir; they were not important—the property—no business—the association was disorganized. The books I don't believe had been referred to; I don't think they had, since the distribution of the property.

Q.—What do these books consist of; account books, memoranda, showing the list of stockholders?

A.—Showing the stockholders; yes, sir.

Mr. Harding—Regular stock books, were they not?

A.—Yes, sir.

Mr. Murphy—How many books were there?

A.—I think there were three or four. Three or four, I think.

Mr. Carson—You said, I believe, that you were in this room only about five minutes?

A.—I don't think it was more than that. I had no object in remaining there.

Q.—You discovered the loss of these books?

A.—I went there, and inquired for these books; and the young man said they were not there, and looked inside, and then went to the Senate Chamber, and to the desk.

Mr. Murphy—Did you make a personal inspection yourself to ascertain whether they were lost or not?

A.—Yes, sir.

Q.—Did you make an inspection of any of the desks in the room?

A.—No, sir. I don't think there was any desk in the room. I think it was a long table.

Mr. Harding—During the course of the examination, which had been had previous to this visit of yours to the room, who seemed to have the care and custody of these books from day to day or night to night—whose possession did you leave them in when you would adjourn from one day to the other?

A.—I think the Secretary, until the last—I think the Secretary.

Q.—The Secretary of the association?

A.—The Secretary of the association, I think he did; I am not positive about it.

Q.—The examination continued for several days?

A.—Two or three days.

Q.—Those books were valuable. What was done with them from one meeting to another? Where did they remain?

A.—I think the Secretary was there the first day, and perhaps two more, if there was three.

Q.—The Secretary of the homestead association?

A.—Yes, sir.

Q.—When they were not being used by the committee they were in the possession of the Secretary?

A.—I think so. They may have been in the possession of the committee.

Q.—How came they to be left at the close of the examination out of the custody of the Secretary?

A.—The committee requested.

Q.—Which members of the committee, do you recollect? Was it a request of the committee, as a committee, or any particular member of it?

A.—That I can't say; but Mr. Haymond, I think, can. I think he can give you all that information.

Q.—That is after the testimony had been taken?

A.—Yes, sir.

Q.—Was it at the last session of the examination that you told the Secretary to leave the books in their possession until they made up their report?

A.—Yes, sir.

Q.—Well, I understood you, a few moment's ago, to say that if you went there, it was the next day or the very day the examination closed, to inquire for the books—is that correct?

A.—That was my impression. I think the committee had reported that were there; they had made their report. That is my impression.

Q.—Did they report as soon as the testimony was closed?

A.—That is my impression; it may have been the next day.

Q.—I understood you to state that when the examination closed, that the committee wished to retain the books for the purpose of inspecting them and examining them?

A.—Yes, sir.

Q.—I also understand you to state, that when the testimony was closed, you went there the next day to take the books with you when you went home?

A.—Yes, sir.

Q.—You went into this room and inquired for the books?

A.—After they had made their report.

Q.—Closed the examination one day and reported the next morning?

A.—I now believe they did—I think that was—Mr. Haymond will remember that; he will tell you that.

Mr. Carson—When you discovered this loss, Mr. Bensley, you departed the same day—you returned to San Francisco the same day you discovered the loss?

A.—The loss of the books?

Q.—Yes.

A.—I stated, and I believe it is so, that I was ready; that I went the day that I inquired. I think now that it was the next day; the day after they had finished the examination—the investigation.

Q.—And you went home the day you made the inquiry?

A.—Yes, sir.

Mr. Harding—Have you ever replaced those books—have they been replaced by others?

A.—They have not.

Q.—No record of them?

A.—No, sir.

Mr. Murphy—Any attempt been made to supply the loss?

A.—No, sir.

Mr. Carson—After discovering the loss of these books, what inquiries did you make on that same afternoon concerning them, other than the inquiry from the young man in charge of the room?

A.—I think I inquired of Mr. Pendegast; that is my impression.

Q.—On that same day?

A.—On the day that I was looking for them, which I think was the day after the investigation.

Q.—Where did you make that inquiry; in the Capitol here?

A.—I think it was in the hall.

Q.—After you had come out of the room?

A.—I think it was.

Q.—Was it immediately after you came out of the room?

A.—Well; I wouldn't say that.

Q.—Had you been anywhere else during the time that elapsed from your leaving the room to your inquiry of Mr. Pendegast, except in the hall?

A.—That I don't remember. I was in the Senate Chamber, and in the Sergeant-at-Arms' room; of course, walking about, as persons do.

Q.—How long, after you had the talk with Mr. Pendegast, was it that you took your departure for San Francisco.

A.—I think it was the same day.

Q.—How long after that day did you institute any other inquiries concerning these books?

A.—I wrote up to Mr. Haymond about it.

Q.—When?

A.—I should think within a week or two; I could tell by referring to a copy of the letter.

Q.—Have you a copy of that letter?

A.—I presume I have.

Q.—Would you have any objections to sending for a copy of that letter? Is it in a press copy-book?

A.—I think it is in a press copy-book. No, sir; I have no objection. You can ask Mr. Haymond. Let him testify. You will be satisfied—you can be satisfied.

Mr. Harding—What we want to get at is, the whereabouts of these books.

A.—Yes, sir; I believe that they are not a great ways off, now.

Mr. Carson—Since you suggest that, excuse me for inquiring the details of your belief?

A.—I believe that that investigation was gotten up before—

Q.—I am not asking you that; I am asking as to your belief as to the whereabouts of these books; just simply what you asserted a moment ago, when you said you believed these books were not far off. Give us the details of that belief.

A.—I believe that—it is not proper, perhaps, for me to state.

Mr. Carson—I insist upon it.

The Chairman—The committee insist upon an answer to that.

A.—I believe that this is a black-mail operation; but I don't believe that this committee know anything about it. I believe that this committee are entirely—I think they have been led into this. I think the parties at the bottom of this—

The Chairman—I object to your language. It is an insult to the committee.

A.—I said I didn't believe that this committee—I first said that this committee—their motives were all pure and good, but they have been led into this by parties who—

Mr. Carson—The motives of this committee are not under discussion now. Who are the parties, then?

A.—I presume that Mr. Wilson is one of them. That is my belief.

Q.—Ezekiel Wilson is one of the parties?

A.—Yes, sir; I believe so.

Q.—Are there any other parties?

A.—I don't know, sir.

Q.—Now, about the books; you believe that the books are not far off?

A.—I believe that the parties—instigators of this—ought to know where they are.

Q.—You believe, you say, that the books are not far off; what do you mean by that?

A.—I mean, as I have stated, that the parties, instigators—I don't know who they are—that they ought to know where they are; the books are. I don't believe this committee do know.

Q.—Have you any opinion as to the whereabouts of those books, or any of them?

A.—I have not.

Mr. Murphy—What motives could the instigators of this investigation have in detaining possession of those books, if any; what motives could they have; what benefit would it be to them?

A.—It wouldn't be any, that I am aware of.

Q.—What motives (if there are any instigators), what motives could those parties have for retaining possession of those books?

A.—I don't know that they would have any motives; but it was started, I believe—the first investigation was started by the same parties, and I presume they ought to know where the books are?

Q.—That is not an answer to the question. What possible benefit could be derived from possession of those books by those parties?

A.—I don't know that there would be any.

Q.—Would not those books be evidence in your favor, if produced, or against you?

A.—I think the facts would show as I have stated.

The Chairman—You say that there is a black-mailing arrangement, and that the parties who instigated this matter before are the same as now—those who instigated this resolution six years ago, introduced by Mr. Pendegast?

A.—Sir?

Q.—The parties on that investigation—Farley and Lewis?

A.—No, sir. I don't believe the committee—I don't wish to be so understood, nor do I impugn any motives to this committee.

Q.—You stated that Mr. Wilson is one of the parties that instigated this movement. I believe you stated so some time ago?

A.—I said I don't know that he is.

Q.—Your belief is that he is one?

A.—Yes, sir.

Q.—Any other?

A.—I don't know.

Mr. Carson—Upon what do you found that belief?

A.—I have heard Mr. Wilson talk to and of Mr. Mason, stating that he never made anything out of this transaction; that he worked for the passage of that bill and never got any pay for it.

The Chairman—Then there was some influence used at the Legislature?

A.—May I ask a question?

The Chairman—You shall have an opportunity by and by.

Mr. Carson—You heard Mr. Wilson talk to and of Mr. Mason?

A.—Yes.

Q.—And so on?

A.—In a very unbecoming manner.

Q.—What did he say?

A.—I think he said about everything he could find.

Q.—What did he say?

Mr. Harding—Complimentary, or otherwise?

A.—No; not complimentary. You can infer when a man talks as bad as he can.

Mr. Carson—What was it all about?

A.—He said he didn't make anything.

Q.—Who didn't make anything?

A.—He; working for this bill—the passage of this bill.

Q.—Did he ever say that to you of Mr. Mason?

A.—No, he did not.

Q.—Did he state it in your presence?

A.—I heard him tell others so.

Q.—You heard him tell Mr. Mason?

A.—At the time of the other investigation.

Q.—What else did he say?

A.—I can't recall the precise language.

Q.—You said that Mr. Wilson claimed he had been badly treated, and that he had not received anything for work he had done in assisting the passage of this bill?

A.—Words to that effect; working for the bill—passage of the bill.

Q.—What reason did Mr. Wilson have, if you know, for feeling injured at that treatment?

A.—I don't know.

Q.—Do you know of any agreement ever having been made with Mr. Wilson for his services in obtaining the passage of that bill?

A.—I do not.

Q.—Did you ever hear of any such agreement prior to the talk of Mr. Wilson himself to Mr. Mason?

A.—No, sir.

Q.—You had no knowledge of that whatever?

A.—I heard Mr. Mason say this: that he offered him the privilege—

Q.—Offered whom?

A.—Mr. Wilson; the privilege of taking shares the same as others did.

Q.—On the same terms as others?

A.—On the same terms as others.

Mr. Harding—Was that before or after the mortgage?

A.—It was not mortgaged.

Mr. Carson—Mr. Mason told you that?

A.—Yes, sir.

Q.—Was that told you by Mr. Mason before the passage of the bill or afterwards?

A.—It was after.

Q.—After the passage of the bill?

A.—Yes, sir.

Q.—Then it was deemed, at that period, a privilege to be allowed to take stock in this association?

A.—It would seem so.

Q.—How do you reconcile that with your statement here, a few minutes ago, that you solicited people to take stock, and entered into an understanding with them that you would take the stock off their hands if they were not satisfied? In other words, one moment it is a privilege, a favor granted, to be allowed to take stock in this association, and the next, people are solicited to take stock?

A.—No; it is the other way.

Q.—How?

A.—First solicited, and then afterwards they considered it a favor.

Mr. Harding—Was there any preferred stock, or unassessable stock?

A.—No, sir; the stock was all the same—the assessment paid on every share.

The Chairman—You say first solicited and afterwards a favor.

A.—Well—

Q. [Interrupting]—Answer my question.

A.—It was a general answer I made—the inquiry made. We solicited people in getting up and starting this association—to take stock, and afterwards—why, it was by some considered a favor.

Mr. Carson—Let me ask you again, how it is, then, that the parties solicited to become original stockholders in the property—how it is the property reverted back to you, while it was considered a favor after the organization, after the passage of the bill, to allow parties to hold stock; how do you reconcile those inconsistencies?

A.—I don't know how to answer that question. It might be that some people would consider it to be a favor, and others would not; they wouldn't appreciate it, perhaps. Some parties would consider it worth more than others. I might see a good in a thing that you wouldn't see at all.

Q.—You spoke about an interview between Mr. Mason and Mr. Wilson. At that interview, did Mr. Wilson charge Mr. Mason with having gone back of his word to him?

A.—I don't recollect. I heard him in the hall. I heard him use this language towards him, in the hall, after the investigation.

Q.—Six years ago?

A.—Yes, sir.

Q.—That he had not complied with his promise?

A.—Mr. Wilson won't deny it.

The Chairman—I want to ask you one more question. You made the statement, a little while ago, that there were parties behind this movement, and that it was a black-mailing movement. Please state to the committee your reasons for that belief?

A.—Well, I can't conceive—I don't know—it seems to me that this Ellis trouble must have been at the bottom of some of it—to divert attention; that, with other disaffected persons, perhaps, may have induced them to talk this thing up.

Mr. Carson—You have spoken of disaffected persons; disaffected in what respect; with reference to what, and for what reasons?

A.—Nothing in connection with this committee.

Q.—In connection with what?

A.—I stated that I believed that Mr. Wilson was one of them.

Mr. Murphy—In connection with the Ellis grant?

A.—I don't know about that.

Mr. Carson—Let us find out what these people were disaffected about—what was the subject-matter?

A.—I don't know.

Mr. Harding—Was it in reference to the passage of this bill—I mean the passage of the Act by which you obtained one hundred and fifty acres of land—was it in relation to the passage of that?

A.—No, sir; when I spoke of that I thought it was—my thoughts were—that in consequence, as I said before, of other steps that had been taken.

Mr. Carson—What steps?

A.—The Ellis affair.

Q.—Ain't you wandering away a good length of time from the original disaffection?

A.—Perhaps I am.

Q.—About this original disaffection I am inquiring.

A.—I didn't state; I stated about Mr. Wilson.

Mr. Harding—Is it your opinion that this investigation was instituted for the purpose of distracting attention to [from?] the Ellis grant?

A.—No, sir; I don't say that.

Q.—This disaffection that you spoke about caused the investigation of six years ago?

A.—In part, I think it did.

Q.—What was that disaffection?

A.—I don't know.

Q.—What do you mean by disaffection?

A.—I mean that Mr. Wilson said he didn't make anything out of it, and that he would like to be paid something.

Q.—For advocating the passage of the bill?

A.—No, sir.

Mr. Carson—For what, then?

A.—Oh, well, yes; for advocating—for his services which he claimed he rendered.

Mr. Harding—You said Mr. Wilson and other parties were dissatisfied? What other parties do you refer to?

A.—I don't know who they were.

Q.—Others that made complaints? Do you mean to say that?

A.—I have not heard of—

Q.—Did others complain to Mr. Mason that they had been treated badly?

A.—Not that I have heard.

Q.—The fact is, that you did expect to spend something for this legislation by which you procured this grant; wasn't that the understanding at the time?

A.—It was not. It was not; and there was never one dollar paid, to my knowledge.

Q.—What do you suppose induced the State of California, through its Legislature, to grant to a set of private men in San Francisco one hundred and fifty-three acres within the city and county limits—what do you think was the moving consideration of that grant?

A.—They had made other grants.

Q.—I want to know (in your judgment—in your opinion) what was the moving consideration for the passage of that Act?

A.—My opinion might not be worth anything.

Q.—We will take it for its value.

A.—I was not in sometime during that session—but that land was considered at that time valueless.

Q.—Better for the State to be rid of it?

A.—The State appointed her own appraisers, to go and appraise the land; and the association had the privilege to buy at the prices named.

Mr. Carson—Who were the appraisers?

A.—That I don't remember. You can ascertain from—

Mr. Harding—Did the members of the Legislature go hunting around to get gentlemen to take acres of the public domain?

A.—Not to my knowledge?

Q.—They didn't solicit them to take it?

A.—Not that I know of. I wasn't here.

Q.—You think there was no inducement held out by yourself or the other owners to the Legislature, by the way of improving the land, thereby increasing the taxes, or otherwise, as a consideration for this grant?

A.—As I was not here I don't know what was said.

Q.—You have a general idea of how that grant was obtained, have you not?

A.—I presume that arguments were used by persons in favor.

Mr. Murphy—Substantial arguments?

A.—It would be guess work. I don't know anything about it. I was not here at the time. It is merely presumption.

Mr. Harding—Do you know what those arguments were?

A.—I don't know.

Q.—You did not authorize anybody to make any argument in favor of the grant.

A.—No, sir.

Q.—Didn't solicit it at all?

A.—No, sir.

Q.—Just as soon not have it as to have it.

A.—I don't say that?

Q.—You didn't consider it of much account at that time, did you?

A.—I don't say that.

Q.—Was the State in the habit of giving away its lands in chunks of one hundred and fifty acres in the City and County of San Francisco?

A.—They have done so on two or three occasions, to parties who were supposed to be good, and in whom they placed implicit confidence?

Q.—What cases do you refer to?

A.—The North San Francisco Homestead Association.

Q.—What others? Do you know of any other instances?

A.—I don't know what the conditions were of the South San Francisco. I think they had a grant to six feet of water only, and they took the land to twelve feet—went out to twelve feet of water—I have been told; and the Tide Land Commissioners have since ratified their sale.

Q.—You say you don't know what the conditions were. Haven't you every reason in the world to believe that the confirmation of the grant to the South San Francisco was in consideration of improvements to the property?

A.—I think they were.

Q.—And didn't they perform those conditions by making valuable improvements, and spending a very large sum of money?

A.—I think they did make improvements.

Q.—Didn't you promise, you and your associates, to make like improvements for a similar grant?

A.—No, sir.

Mr. Carson—Did you have any conversation or understanding whatever with Mr. Mason, your co-owner, on the subject of any condition such as spoken of by Mr. Harding?

A.—I did not.

Q.—Did Mr. Mason and you ever account, in any way, for any expenses incurred—expenses either of money, land, shares of stock, or other values—incur in obtaining the passage of the Act referred to?

A.—No, sir; his expenses up to Sacramento were paid; but we never paid any money for the passage of the bill, or any consideration of stock, or anything else.

Q.—What do you include in his expenses to Sacramento?

A.—That includes his actual expenses.

Q.—What do you include in his actual expenses?

A.—I don't remember what they were.

Q.—To what amount were those expenses? Of what amount?

A.—That I don't remember.

Q.—But you did have an accounting with Mr. Mason as to his expenses in the matter of obtaining this grant?

A.—I presume so.

Q.—You have said just now, you did?

A.—Not in the passage. He came to Sacramento and had—

Q.—Charge—well, go on.

A.—He was here during the session. He gave the matter attention, and I presume that his expenses were paid. I don't know what they were.

Q.—By whom?

A.—That I don't know. I suppose by the association.

Q.—By the association?

A.—I suppose so.

Mr. Harding—Would these lost books have shown the items of those expenses, or the gross amount of the expenses, of Mr. Mason to Sacramento, during the passage of that Act. These books which are supposed to be lost—would they show the amount of the expenses incurred by Mr. Mason?

A.—I think they would.

Q.—You think they would?

A.—I think they would.

Q.—You think they would show the items of the expenses?

A.—I think they would—I think they would show the items.

Q.—You have an impression that his expenses to Sacramento figured in the statement of your accounts. I understand you so state?

A.—I stated that I presume that his expenses were paid. He was in Sacramento that winter very frequently.

Q.—You think that these lost books would show the items?

A.—I think so. I am not positive about that.

Mr. Carson—Did you contribute, in any way, to reimbursing Mr. Mason for his expenses that you have spoken of?

A.—No, sir.

Q.—You did not?

A.—I suppose I paid my share.

Mr. Harding—Have you any books to show what you paid as your share?

A.—No, sir.

Q.—Have you any books, papers, or documents, to show what you paid?

A.—No, sir.

Q.—Those are matters that you didn't keep in books?

A.—I presume those books would show.

Q.—Expenses of legislation—do you know whether they were all noted in the books of the corporation—of the company?

A.—No, I do not.

Q.—I understand, Mr. Bensley, from your whole testimony, from first to last, that you wish to convey the idea to this committee, that no inducement, by the way of improving this land, thereby improving the city, was ever held out to members of the Legislature that passed that Act, whereby this grant was made?

A.—That I can't say, I was not here.

Q.—I have understood that to be the theory of your testimony. Is that the impression you would have this committee to receive from your testimony?

A.—I don't wish to give any impression. It would be only an opinion.

Q.—Is that correct, or not? Do you wish your testimony to convey such an impression, or the contrary?

A.—There was no—

Q. [Interrupting]—I think that that question is not difficult. Can't you answer that directly? I understand from your whole theory of this case, this controversy, that neither you nor your associates held out any inducement to the Legislature for this grant whatever. Is that correct?

A.—I stated that I didn't know; that I was not here. It would be only an impression, or an opinion, which would amount to nothing.

Q.—Is that opinion founded on facts that transpired; circumstances that transpired at the time?

A.—I don't know what transpired, only that they passed the grant. I presume that it was advocated, urged—no doubt of it—but I don't know what was said any more than any other person who was not here.

Q.—Is that the only answer that you will give to that question?

A.—That is as near as I can know how to answer it.

Mr. Murphy—You and your associates sent Mr. Mason here for the purpose of lobbying this bill?

A.—Well; he was up here on that business; I can't say precisely who sent him here. I presume that I was in favor of having him come here; in fact, I may say that I was.

The Chairman—I believe in your former testimony you testified that they originally held five shares apiece?

A.—Yes, sir.

Q.—No member was allowed to hold over five shares, I believe, in the original association?

A.—Yes, sir.

Q.—At first, before the passage of the bill?

A.—That restriction was taken out.

Q.—After the passage of the bill?

A.—I am not certain whether it was before or after the passage of the bill.

Q.—I will read from the testimony. [Reads.] “And I asked Mr. Mason if he held any inducement out to any member of the Legislature, or to any other person, for the purpose of assisting the passage of the bill. He answered, he did. Q.—Who was that man? A.—Wm. B. Carr. He gave Mr. Carr”—— Do you know anything about that?

A.—I heard Mr. Mason say, within the last week, that he gave Mr. Carr five shares of stock for his——

Q.—Services?

A.—For looking after this matter while he was away, and that subsequently Mr. Carr didn't consider the shares worth anything and he sold them to Mr. Taylor.

Q.—What Taylor was that?

A.—Wm. H. Taylor.

Q.—Then, if Mr. Mason was given five shares, there is some discrepancy in your former testimony in that matter, for he could have had certainly no shares left for himself, for you were only to hold five shares each.

A.—Well; this may have been after the restriction of five shares was removed.

Mr. Harding—Did you have any stock set apart as a working fund?

A.—We did not.

Q.—Has this stock ever been above par, in this homestead association? Have the shares ever been above par? What is the par value?

A.—Two hundred dollars.

Q.—Were they above par at that time?

A.—No, sir.

Q.—What are the shares worth now?

A.—There are no shares. There have not been since the disposition of the property.

Q.—At the time was it above par? Was it worth more than the face—would it sell for more? Would it sell for more than two hundred dollars at the time of the distribution of the property?

A.—I don't know. I was going to explain, at the distribution, that there was a premium paid for the choice of lots.

Q.—A man who held a share had a certificate for it?

A.—Yes, sir.

Q.—Was that worth more than two hundred dollars?

A.—No; I don't think it was worth more than that at that time.

The Chairman—Your original articles of incorporation—original by-laws—allowed to hold five shares each?

A.—Yes, sir.

Q.—I find in the articles of incorporation of your association, that it was filed in the office of the Secretary of State, the second of January, eighteen hundred and sixty-four. [See Exhibit E.] Your bill passed in the latter part of March, eighteen hundred and sixty-four. Do you mean to state to the committee you changed your by-laws in the short space of time between the organization of the homestead association and the passage of the bill, allowing one party to hold more than five shares?

A.—I think we did.

Q.—Do you mean to say that you changed your by-laws before the passage of the grant—the bill according the grant?

A.—I think so; they were changed at that time.

Mr. Harding—The change in the by-laws?

A.—The change in the by-laws.

Mr. Carson—Is that record book in existence?

A.—No, sir.

Q.—Is that one of the books that was mislaid?

A.—Yes, sir.

Q.—Would that record book have shown the change in the by-laws? Did that record book show the change in the by-laws?

A.—I don't know. I presume it would. I don't know.

The Chairman—When did you see Mr. Mason last?

A.—I saw him Tuesday.

Q.—Was he lying in bed?

A.—Yes, sir.

Q.—Had he been confined to his bed for some time?

A.—Yes, sir.

Q.—Is he able to talk business?

A.—Yes, sir.

Mr. Carson—Is he able to travel?

A.—No; he is required to remain in his bed—he is badly off.

EZEKIEL WILSON, recalled.

Mr. Wilcox—The statement has been made here that you are one of the parties that are attempting, behind this investigation, to blackmail the Golden City Homestead Association. Please make a statement to this committee of your connection with the matter, and what you have had to do with it?

Mr. Bensley—I don't state that he has. It was merely an opinion. You asked my opinion, and it was my opinion—that is all.

Mr. Wilcox—State your connection with the matter. State what you know in reference to this investigation of the Homestead Association?

Answer—I knew nothing of this matter until I heard that a resolution had passed, calling for an investigation; I had heard nothing of it. I will also state that I knew nothing of the Pendegast resolution of six years ago till——

Q.—After it passed the house?

A.—Until after it passed the Senate, I knew nothing of it; never had conversed with any person on the subject.

Q.—Mr. Bensley has stated that he heard you, in speaking to Mr. Mason, say something in reference to the passage of this bill. Please state to the committee your reasons—what promise Mr. Mason had made to you?

A.—Well, it is so long ago I can't repeat the language.

Q.—Give us the context?

A.—I have a recollection of having talked with him on the Senate end of the Capitol some six years ago, and I stated, the same as I have here before, that he had acted in bad faith; that he came up here and represented that they had a piece of property that was worth twenty thousand dollars, upland.

Q.—Himself and Mason?

A.—Himself and Bensley; that they had a piece of upland that they wished to put into a homestead association, and they wanted the submerged lands for the purpose of dumping the earth and rock, to make it eligible for building purposes; and that I could have a cer-

tain amount of the stock at the rate of twenty thousand dollars. The stock was to be put in market for one hundred thousand dollars. It was to be assessed to pay these expenses—to go on to make these improvements. He had not kept his word with me. I had nothing to do with getting up the investigation six years ago; neither have I in getting up this. If I have, I hope to never see my home.

Mr. Bensley—I would like to ask Mr. Wilson if he was ever offered any stock, or any money, or was authorized to pay any member of the Legislature for voting for this bill?

The Chairman—Divide your question.

Mr. Bensley—I will ask, first, if he was ever promised any stock other than to take it as others did, by paying the assessments on it?

A.—I am glad you have asked the question. You have said that your Secretary was instructed—that the books were open in San Francisco—any one could come and take the stock. If I had wanted the stock, why didn't I go and subscribe for it, and take it in San Francisco? Why didn't I go? There is no time but what I have means to buy a little land if I want it.

Mr. Carson—You were to get so much land at the rate of twenty thousand dollars for the whole hundred acres of upland?

A.—Yes, sir; I was to pay in proportion of twenty thousand dollars for the upland.

Q.—That is, twenty thousand dollars was the price fixed for the whole upland?

A.—The price fixed for the whole upland.

Mr. Harding—That was to be put on the market for one hundred thousand dollars?

A.—One hundred thousand dollars. And then the whole property was to be assessed for the purpose of making it eligible for building purposes, and to be cut up into lots, as they run all those homestead associations.

Mr. Bensley—The question was: If he was ever offered or authorized to pay any member for voting for this bill?

A.—No; or no other bill—no other bill.

J. W. WILCOX, sworn by Mr. Carson.

Mr. Bensley—I believe you were a member of the Legislature of eighteen hundred and sixty-three-four, at the time this bill passed?

Answer—I was.

Q.—You voted for that bill in all its stages, did you not?

A.—I think I voted for it—I voted for it at its passage, I know.

Q.—For its engrossment?

A.—For engrossment.

Q.—Was there ever any improper motive used for the passage of that bill, by any person connected with that association?

A.—As far as I was concerned myself there was not, from the fact that I had friends who were engaged in it; and, I believe, the intention was in good faith (that was the representation made to me), to level down the high lands behind, and to make it an eligible homestead property. At the time the bill passed, or a few days after it was passed, rumors were current, all around the Legislature, that Mr. Mason had made transfers to members of the lobby, at what he called "bed-rock prices," for their influence in passing the bill; and, I understood, that he had bilked all of them out of it; but I had no

interest myself in the bill—never had the promise of a dollar in money, or a share of stock.

Mr. Harding—What was the motive held up to the Legislature by the friends of the bill for passing that—giving these people this grant?

A.—Simply that it would make this unproductive land—as it was—that if it was given to this homestead association, believing they were going on in good faith, that they would make this worthless property eligible for homesteads, and make a million or so of dollars of taxable property; make homesteads for poor people, by filling in from the back high lands when they leveled the ground. That was the whole of the argument used before the Legislature.

Q.—And you understood that argument to be authorized by the stockholders of the homestead?

A.—That was what I understood to be.

Mr. Bensley—Can you state who made that representation?

A.—By every friend of the bill who was working for it. Benjamin Dore, of San Francisco, was one, and almost every man who was interested in the bill.

Q.—Did Mr. Mason make any such representation?

A.—I don't know as I ever spoke to Mr. Mason a dozen times in my life.

Q.—If there were any such understanding, would it not appear in the form of an agreement of that kind with the State; would it not appear in the patent; are there any such conditions in the patent?

A.—No conditions in the bill; and I state that as one of the arguments used by the opponents of the bill, as stated the other night by Senator Porter, when asked whether he didn't believe that you were acting in good faith (to use his own language), "It was a proposition to steal that amount of property from the State." The Governor made the remark, not fifteen minutes after signing the bill, that if he had it back again he would not sign it.

Q.—The statement that I read—the account of his testimony—stated that he believed the members of the Legislature were guilty of a fraud in passing the bill?

A.—That is not the testimony. I will state to the committee that Mr. Bensley made a statement that he believed the purpose of raising this investigation was for the purpose of black-mailing. I wish to state here he recalls that portion of it, and says he don't apply it to this committee. Now, I will state to this committee that no single member of the lobby, not one single one, ever consulted with me until after the introduction of the resolution; until after it was introduced and passed through the House; and no man that has ever been a member of the lobby, who has any connection, directly or indirectly with the lobby, ever approached me on that subject; not a single one. I was talked to by several gentlemen who were not members of the lobby.

Mr. Carson—A bill relating to homestead corporations was passed about the same time with the Golden City Homestead grant. Do you know anything of the passage of that bill?

A.—Not until after the bill passed through the Legislature.

Q.—Do you know anything of the persons advocating the passage of the latter bill—that is, the bill amending the Homestead Act?

A.—It was understood, after the passage of the bill (the bill passed through quietly), there was simply an amendment to the title of the

bill and another amendment to the Act, and authorizing the formation of corporations, and devote the lands thereof for homesteads, and so on. The bill passed through under that title, and nobody noticed it at all. Then the matter came up after the charge was made that Mr. Mason had forfeited his word to the members of the lobby, and on examination they found that the provisions of the bill were simply to give authority to carry out the grant that they had. The matter was never mooted until a day or so after the Legislature adjourned.

Q.—Then you learned that the same parties advocating the one were advocating the other?

A.—Yes, sir; the bills went through jointly. They both were approved on the same day.

Q.—This you say from your own personal knowledge?

A.—From what was told me a day or two after the Legislature adjourned. There was quite an excitement about it. It was very much talked about by members of the lobby, and parties here assisting the passage of that bill, Johnny Martin, Wm. B. Carr, and others.

EZEKIEL WILSON, recalled.

The Witness—I wish to correct my testimony of the other night. I stated that I had no recollection of calling at the office on Jackson street; but I do recollect of calling at Jackson street; but they were not in session at the office.

Mr. Carson—Of the Golden City Homestead Association?

Answer—Of the Golden City Homestead Association. I saw Mr. Mason. I stated the other night that I had no recollection of being there, but I did; I saw Mr. Mason, and I asked for my stock, and was willing to pay for it at the price agreed on. And I could get no satisfaction out of them. They wanted to put the stock in at one hundred thousand dollars, instead of twenty thousand. I left him and went to Mr. Carr. Mr. Carr told me that he could fix it up and have it corrected. Afterwards, Mr. Carr informed me that they were a set of scoundrels, and didn't keep their word; and that he was going to draw out of it, and advised me to do the same. Then I went to Montgomery Block, and saw Mr. Mason, and had a very plain talk with him; but I could get no satisfaction out of him. It was a legitimate transaction, so far as I was concerned; they offered to sell property at a certain price, and they forfeited their word.

Here the committee adjourned, to meet at the call of the Chairman.

EXHIBIT A.

REPORT OF COMMITTEE ON REAL ESTATE OF THE GOLDEN CITY HOMESTEAD ASSOCIATION.

To the Officers and Directors of the "Golden City Homestead Association."

Your committee, appointed by the President, at a meeting of the Board of Directors held on the thirteenth instant, to inquire respecting certain lands on the "Potrero Nuevo," to ascertain the price and terms on which the same could be obtained by this association, and to investigate the title thereof, beg leave to report:

That they have conferred with John Bensley and Frederick Mason, the principal owners of the land referred to, and they find that the tract embraces about one hundred acres of land, with a frontage on the Bay of San Francisco of about one thousand eight hundred feet, and that the following blocks and parts of blocks, as laid down upon the map of the "Potrero Nuevo," are comprised within its boundaries, viz: blocks one hundred and eighty-five, one hundred and eighty-six, one hundred and eighty-seven, one hundred and eighty-eight, one hundred and eighty-nine, one hundred and ninety, two hundred and seventeen, two hundred and eighteen, two hundred and nineteen, two hundred and twenty-two, two hundred and twenty-three, two hundred and twenty-four, two hundred and fifty-three, two hundred and fifty-four, two hundred and fifty-five, two hundred and fifty-eight, two hundred and fifty-nine, two hundred and sixty, two hundred and eighty-nine, two hundred and ninety, two hundred and ninety-one, two hundred and ninety-five, two hundred and ninety-six, three hundred and twenty-five, and portions of one hundred and eighty-three, one hundred and eighty-four, two hundred and twenty, two hundred and twenty-one, two hundred and fifty-six, two hundred and fifty-seven, two hundred and ninety-two, two hundred and ninety-three, two hundred and ninety-four, three hundred and twenty-six, three hundred and thirty-two, and three hundred and sixty-one.

They further report that they have had submitted to them an abstract of title of said lands, accompanied by a map of the same, together with a written opinion of the Hon. Oscar L. Shafter, of the

Supreme Court of the State of California, relative to the title thereof, and, from the examination of these documents, they believe the said Bensley & Mason, and parties in interest with them, have a good and valid title to said lands.

They further report that the said Bensley & Mason, for themselves and their associates in interest with them, have proposed to your committee to enter into a covenant or agreement to sell and convey said lands to this association, for the consideration of the sum of one hundred thousand dollars (\$100,000), payable in the gold coin of the United States, in the manner following, to wit: the first payment, of twenty thousand dollars, to be made on or before the fifteenth day of May, eighteen hundred and sixty-four, and the balance, of eighty thousand dollars, to be paid in regular monthly payments, of five thousand dollars each, on the fifteenth day of each and every succeeding month thereafter, until the whole sum of one hundred thousand dollars shall be fully paid.

All of which is respectfully submitted.

THADDEUS R. BROOKS,
L. BRUNNER,
CHARLES ELLIOT,
Committee.

SAN FRANCISCO, January 15th, 1864.

EXHIBIT B.

COPY OF MORTGAGE MADE BY JOHN BENSLEY TO THE NEVADA BANK, OF
SAN FRANCISCO, FOR EIGHTY THOUSAND DOLLARS, MADE ON THE
TWENTY-FOURTH DAY OF NOVEMBER, EIGHTEEN HUN-
DRED AND SEVENTY-FIVE.

John Bensley to the Nevada Bank:

This indenture, made the twenty-fourth day of November, in the year of our Lord, one thousand eight hundred and seventy-five, between John Bensley, of San Francisco, California, party of the first part, and "the Nevada Bank of San Francisco," party of the second part: Whereas, the said party of the first part is justly indebted to the said party of the second part, in the sum of eighty thousand dollars, lawful gold coin of the United States, secured to be paid by his certain promissory note, bearing even date with these presents, in words and figures following, namely:

SAN FRANCISCO, Cal., November 24th, 1875.
\$80,000. On the twenty-fourth day of November, eighteen hundred and seventy-six, at three o'clock p. m. of that day (no grace), for value received, in gold coin of the Government of the United States, I promise to pay to the order of the Nevada Bank of San Francisco, in this city, eighty thousand dollars with interest from date, at the rate of one and one-quarter per cent. per month, until paid, payable monthly, both principal and interest payable in like gold coin.
JOHN BENSLEY.

Now this indenture witnesseth, that the said party of the first part, for the better securing the payment of the said sum of money secured to be paid by the said promissory note, with interest thereon according to the true intent and meaning thereof, and also for and in consideration of the sum of one dollar to him in hand paid by the said party of the second part, at or before the ensembling and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted bargained, sold, aliened, released, conveyed, and confirmed, and by these presents doth grant, bargain, sell, alien, release, convey, and confirm unto the said party of the second part, and to its successors and assigns forever, the undivided one-half part of all the hereinafter described parcels of land, and of land covered with water, situate in the City and County of San Francisco, State of California, and particularly and respectively described as follows:

First—That certain parcel of land circumscribed by a line commencing at the northeast corner of DeHaro and Colusa streets; running thence easterly along the northerly line of Colusa street two hundred feet; thence at right angles northward one hundred and fifty-seven feet; thence at right angles westward two hundred feet to the easterly line of DeHaro street; thence southward along said easterly line of DeHaro street one hundred and fifty-seven feet to the point of commencement, and being a portion of Potrero block numbered one hundred and eighty-four.

Second—That certain parcel of land and land covered with water circumscribed by a line commencing at the southeast corner of DeHaro and Colusa streets; running thence southward along the easterly line of DeHaro street one hundred feet; thence eastward and parallel with Colusa street one hundred feet; thence southward and parallel with DeHaro street twenty-five feet; thence westward and parallel with Colusa street one hundred feet to the easterly line of DeHaro street; thence southward along said easterly line of DeHaro street three hundred and forty-one feet; thence eastward and parallel with Colusa street two hundred feet to the westerly line of Carolina Street; thence northward along said westerly line of Carolina street three hundred and sixteen feet; thence westerly and parallel with Colusa street one hundred feet; thence northerly and parallel with Carolina street one hundred feet; thence easterly and parallel with Colusa street one hundred feet to the westerly line of Carolina street; thence northward along said westerly line of Carolina street fifty feet to the southerly line of Colusa street; thence westward along said southerly line of Colusa street two hundred feet to the point of commencement, embracing a portion of Potrero block, numbered one hundred and eighty-five, and other land.

Third—That certain parcel of land and land covered with water circumscribed by a line commencing at a point on the easterly line of DeHaro street four hundred and sixty-six feet southward from the southeasterly corner of DeHaro and Colusa streets; running thence eastward and parallel with Colusa street two hundred feet to the westerly line of Carolina street; thence southward along said westerly line of Carolina street four hundred feet; thence westward and parallel with Colusa street two hundred feet to the easterly line of DeHaro street; thence northward along said easterly line of DeHaro street four hundred feet, to the point of beginning, being Potrero block numbered one hundred and eighty-six.

Fourth—That certain parcel of land and land covered with water circumscribed by a line commencing at a point on the easterly line of Carolina street four hundred and sixty-six feet southward from the southeasterly corner of Carolina and Colusa streets; thence running eastward and parallel with Colusa street two hundred feet to the westerly line of Wisconsin street; thence southward along said westerly line of Wisconsin street four hundred feet; thence westward and parallel with Colusa street two hundred feet to the easterly line of Carolina street; thence northward along said easterly line of Carolina street four hundred feet to the point of commencement, being Potrero block numbered one hundred and eighty-seven.

Fifth—That certain parcel of land and land covered with water circumscribed by a line commencing at a point on the easterly line of Carolina street two hundred and fifty feet southward from the southeasterly corner of Carolina and Colusa streets; thence southward

along the easterly line of Carolina street two hundred and sixteen feet; thence eastward and parallel with Colusa street two hundred feet to the westerly line of Wisconsin street; thence northward along said westerly line of Wisconsin street sixty-six feet; thence westward and parallel with Colusa street one hundred feet; thence northward and parallel with Carolina street one hundred and fifty feet; thence westward and parallel with Colusa street one hundred feet to the point of commencement; being portion of Potrero block numbered one hundred and eighty, and other land.

Sixth—That certain parcel of land circumscribed by a line commencing at a point on the southerly line of Colusa street one hundred feet eastward from the southeasterly corner of Carolina and Colusa streets; thence southward and parallel with Carolina street two hundred and fifty feet; thence eastward and parallel with Colusa street one hundred feet to the westerly line of Wisconsin street; thence northward along said westerly line of Wisconsin street two hundred and fifty feet to the southwesterly corner of Wisconsin and Colusa streets; thence westward along the southerly line of Colusa street one hundred feet to the point of commencement, being portion of Potrero block numbered one hundred and eighty-eight.

Seventh—That certain parcel of land circumscribed by a line commencing at the northwesterly corner of Wisconsin and Colusa streets; running thence northward along the westerly line of Wisconsin street three hundred and fifty feet; thence westward and parallel with Colusa street one hundred feet; thence southward and parallel with Wisconsin street one hundred and fifty feet; thence westward and parallel with Colusa street one hundred feet to the easterly line of Carolina street; thence southward along said easterly line of Carolina street one hundred and fifty feet; thence eastward and parallel with Colusa street one hundred feet; thence southward and parallel with Carolina street fifty feet to the northerly line of Colusa street; thence eastward along said northerly line of Colusa street one hundred feet to the point of commencement, being portion of Potrero block numbered one hundred and eighty-nine.

Eighth—That certain parcel of land circumscribed by a line commencing at the northeast corner of Wisconsin and Colusa streets; running thence northward along said easterly line of Wisconsin street four hundred and twenty feet six inches; thence eastward and parallel with Colusa street eighty feet; thence northward and parallel with Wisconsin street twelve feet and six inches; thence eastward and parallel with Colusa street one hundred and twenty feet to the westerly line of Arkansas street; thence southward along said westerly line of Arkansas street four hundred and thirty-three feet to the northerly line of Colusa street; thence westward along said northerly line of Colusa street two hundred feet to the point of commencement, embracing nearly all of Potrero block numbered two hundred and eighteen.

Ninth—That certain parcel of land circumscribed by a line commencing at the southeasterly corner of Colusa and Wisconsin streets; running thence southward along the easterly line of Wisconsin street two hundred and fifty feet; thence eastward and parallel with Colusa street one hundred feet; thence southward and parallel with Wisconsin street fifty feet; thence westward and parallel with Colusa street one hundred feet to the easterly line of Wisconsin street; thence southward along said easterly line of Wisconsin street

fifty feet; thence eastward and parallel with Colusa street two hundred feet to the westerly line of Arkansas street; thence northward along said westerly line of Arkansas street three hundred and fifty feet to the southerly line of Colusa street; thence westward along said southerly line of Colusa street two hundred feet to the point of commencement, being portion of Potrero block number two hundred and nineteen.

Tenth—That certain parcel of land circumscribed by a line commencing at a point on the easterly line of Wisconsin street four hundred and thirty-three feet southerly from the southerly line of Colusa street; thence southward along the easterly line of Wisconsin street one hundred and thirty-three feet; thence eastward and parallel with Colusa street one hundred feet; thence northward and parallel with Wisconsin street one hundred and thirty-three feet; thence westward and parallel with Colusa street one hundred feet to the point of commencement, embracing a portion of Potrero block numbered two hundred and twenty.

Eleventh—That certain parcel of land circumscribed by a line commencing at a point on the easterly line of Arkansas street five hundred and sixty-six feet southward from the southeasterly corner of Arkansas and Colusa streets; running thence southward along the easterly line of Arkansas street two hundred and fifty feet more or less to the shore line of Islais Creek; thence easterly and along and following said shore line to the westerly line of Connecticut street; thence northward along said westerly line of Connecticut street two hundred and fifty feet more or less to a point five hundred and sixteen feet southward from the southerly line of Colusa street; thence westerly and parallel with Colusa street one hundred feet; thence southward and parallel with Arkansas street fifty feet; thence westward and parallel with Colusa street one hundred feet to the point of beginning, being a portion of Potrero block numbered two hundred and twenty-one.

Twelfth—That certain parcel of land circumscribed by a line commencing at the northeasterly corner of Arkansas and Colusa streets; running thence northward along the easterly line of Arkansas street four hundred and thirty-three feet; thence eastward and parallel with Colusa street one hundred feet; thence southward and parallel with Arkansas street eighty-three feet; thence eastward and parallel with Colusa street one hundred feet to the westerly line of Connecticut street; thence southward along said westerly line of Connecticut street one hundred feet; thence westward and parallel with Colusa street one hundred feet; thence southward and parallel with Connecticut street fifty feet; thence eastward and parallel with Colusa street one hundred feet to the westerly line of Connecticut street; thence southward along said westerly line of Connecticut street one hundred feet; thence westward and parallel with Colusa street one hundred feet; thence southward and parallel with Connecticut street one hundred feet to the northerly line of Colusa street; thence westward along said northerly line of Colusa street one hundred feet to the point of commencement, being a portion of Potrero block numbered two hundred and twenty-three.

Thirteenth—That certain parcel of land circumscribed by a line commencing at a point on the easterly line of Arkansas street three hundred feet southward from the southeasterly corner of Arkansas and Yolo streets; running thence southward along the easterly line

of Arkansas street one hundred and thirty-three feet; thence eastward and parallel with Yolo street two hundred feet to the westerly line of Connecticut street; thence northward along said westerly line of Connecticut street three hundred and thirty-three feet; thence westward and parallel with Yolo street one hundred feet; thence southward and parallel with Connecticut street two hundred feet; thence westward and parallel with Yolo street one hundred feet to the point of commencement, being a portion of Potrero block numbered two hundred and twenty-four.

Fourteenth—That certain parcel of land circumscribed by a line commencing at the southeasterly corner of Yolo and Connecticut streets; running thence eastward along the southerly line of Yolo street two hundred feet; thence southward along the westerly line of Missouri street four hundred and thirty-three feet; thence westward and parallel with Yolo street two hundred feet to the easterly line of Connecticut street; thence northward along said easterly line of Connecticut street four hundred and thirty-three feet to the point of commencement, being Potrero block numbered two hundred and fifty-three.

Fifteenth—That certain parcel of land circumscribed by a line commencing at a point on the east line of Connecticut street four hundred and thirty-three feet southward from the southeasterly corner of Yolo and Connecticut streets; running thence southward along said easterly line of Connecticut street one hundred and forty-one feet and six inches; thence eastward and parallel with Yolo street two hundred feet to the westerly line of Missouri street; thence northward along said westerly line of Missouri street one hundred and forty-one feet and six inches; thence westward and parallel with Yolo street two hundred feet to the point of commencement, being a portion of Potrero block numbered two hundred and fifty-four.

Sixteenth—That certain parcel of land circumscribed by a line commencing at the northeasterly corner of Connecticut and Colusa streets; running thence northward along the easterly line of Connecticut street one hundred feet; thence eastward and parallel with Colusa street one hundred feet; thence southward and parallel with Connecticut street one hundred feet to the northerly line of Colusa street; thence westward along said northerly line of Colusa street one hundred feet to the point of commencement, being a portion of Potrero block numbered two hundred and fifty-four.

Seventeenth—That certain parcel of land circumscribed by a line commencing at the southwest corner of Missouri and Colusa streets; running thence southward along the westerly line of Missouri street fifty feet; thence westerly and parallel with Colusa street one hundred feet; thence northward and parallel with Missouri street fifty feet to the southerly line of Colusa street; thence eastward along the southerly line of Colusa street one hundred feet to the point of beginning, being a portion of Potrero block numbered two hundred and fifty-five.

Eighteenth—That certain parcel of land circumscribed by a line commencing at a point on the easterly line of Connecticut street one hundred feet southward from the southeasterly corner of Connecticut and Colusa streets; running thence southward along the easterly line of Connecticut street fifty feet; thence eastward and parallel with Colusa street two hundred feet to the westerly line of Missouri street; thence southward along said westerly line of Missouri street

souri street one hundred and fifty feet; thence westward and parallel with Colusa street one hundred feet; thence southward and parallel with Missouri street fifty feet; thence westward and parallel with Colusa street one hundred feet to the easterly line of Connecticut street; thence northward along said easterly line of Connecticut street one hundred and fifty feet; thence eastward and parallel with Colusa street one hundred feet; thence northward and parallel with Connecticut street one hundred feet; thence westward and parallel with Colusa street one hundred feet to the point of commencement, being a portion of Potrero block numbered two hundred and fifty-five.

Nineteenth—That certain parcel of land and land covered with water circumscribed by a line commencing at a point on the easterly line of Connecticut street five hundred and sixty-six feet southward from the southeasterly corner of Connecticut and Colusa streets; running thence southward along the easterly line of Connecticut street to the northeasterly corner of Tulare and Connecticut streets; thence eastward and following the northerly line of Tulare street to the northwesterly corner of Tulare and Missouri streets; thence northward along the westerly line of Missouri street to a point five hundred and sixteen feet southward from the southwesterly corner of Missouri and Colusa streets; running thence westward and parallel with Colusa street one hundred feet; thence southward and parallel with Missouri street fifty feet; thence westward and parallel with Colusa street one hundred feet to the point of commencement, being portion of Potrero block, numbered two hundred and fifty-six.

Twentieth—That certain parcel of land and of land covered with water circumscribed by a line commencing at a point on the easterly line of Missouri street four hundred and thirty-three feet southward from the southeasterly corner of Missouri and Colusa streets; thence southward along the easterly line of Missouri street to the northeasterly corner of Tulare and Missouri streets; thence eastward along the northerly line of Tulare street to the northwesterly corner of Tulare and Texas streets; thence northward along the westerly line of Texas street to a point four hundred and thirty-three feet southward from the southwesterly corner of Texas and Colusa streets; running thence westward and parallel with Colusa street two hundred feet to the point of commencement, being fractional Potrero block numbered two hundred and fifty-seven.

Twenty-first—That certain parcel of land circumscribed by a line commencing at the southeasterly corner of Missouri and Colusa streets; thence eastward along the southerly line of Colusa street two hundred feet to the southwesterly corner of Colusa and Texas streets; thence southward along the westerly line of Texas street four hundred and thirty-three feet; thence westward and parallel with Colusa street two hundred feet to the easterly line of Missouri street; thence northward along the easterly line of Missouri street four hundred and thirty-three feet to the point of commencement, being Potrero block numbered two hundred and fifty-eight.

Twenty-second—That certain parcel of land circumscribed by a line commencing at the northwesterly corner of Texas and Colusa streets; thence westerly along the northerly line of Colusa street one hundred feet; thence northward and parallel with Texas street fifty feet; thence westward and parallel with Colusa street one hundred feet to the easterly line of Missouri street; thence northward along the

easterly line of Missouri street three hundred and eighty-three feet; thence eastward and parallel with Colusa street two hundred feet to the westerly line of Texas street; thence southward along said westerly line of Texas street two hundred and eighty-three feet; thence westward and parallel with Colusa street one hundred feet; thence southward and parallel with Texas street fifty feet; thence eastward and parallel with Colusa street one hundred feet to the westerly line of Texas street; thence southward along said westerly line of Texas street one hundred feet to the point of beginning, being portion of Potrero block numbered two hundred and fifty-nine.

Twenty-third—That certain parcel of land circumscribed by a line commencing at the southwesterly corner of Yolo and Texas streets; thence westward along the southerly line of Yolo street two hundred feet to the southeasterly corner of Missouri and Yolo streets; thence southward along the easterly line of Missouri street fifty feet; thence eastward and parallel with Yolo street two hundred feet to the westerly line of Texas street; thence northward along said westerly line of Texas street fifty feet to the point of commencement, being portion of Potrero block numbered two hundred and sixty.

Twenty-fourth—That certain parcel of land circumscribed by a line commencing at the southeasterly corner of Yolo and Texas streets; thence easterly along the southerly line of Yolo street one hundred feet; thence southward and parallel with Texas street fifty feet; thence westward and parallel with Yolo street one hundred feet, to the easterly line of Texas street; thence northward along said easterly line of Texas street fifty feet to the point of commencement, being portion of Potrero block numbered two hundred and eighty-nine.

Twenty-fifth—That certain parcel of land circumscribed by a line commencing on the easterly line of Texas street four hundred and thirty-three feet southward from the southeasterly corner of Texas and Yolo streets; running thence southward along the easterly line of Texas street four hundred and thirty-three feet to the northeasterly corner of Texas and Colusa streets; thence eastward along the northerly line of Colusa street one hundred feet; thence northward and parallel with Texas street one hundred feet; thence eastward and parallel with Colusa street one hundred feet to the westerly line of Mississippi street; thence northward along said westerly line of Mississippi street three hundred and thirty-three feet; thence westward and parallel with Colusa street two hundred feet to the point of commencement, being portion of Potrero block numbered two hundred and ninety.

Twenty-sixth—That certain parcel of land circumscribed by a line commencing at the southeasterly corner of Colusa and Texas streets; running thence southward along the easterly line of Texas street fifty feet; thence eastward and parallel with Colusa street one hundred feet; thence southward and parallel with Texas street two hundred feet; thence westward and parallel with Colusa street one hundred feet to the easterly line of Texas street; thence southward along said easterly line of Texas street one hundred feet; thence eastward and parallel with Colusa street one hundred feet; thence southward and parallel with Texas street eighty-three feet; thence eastward and parallel with Colusa street one hundred feet to the westerly line of Mississippi street; thence northward along said westerly line of Mississippi street four hundred and thirty-three feet to the south-

westerly corner of Colusa and Mississippi streets; thence westward along the southerly line of Colusa street two hundred feet to the point of beginning, being portion of Potrero block numbered two hundred and ninety-one.

Twenty-seventh—That certain parcel of land and of land covered with water circumscribed by a line commencing at a point on the easterly line of Mississippi street fifty feet southward from the southeasterly corner of Mississippi and Colusa streets; running thence southward along the easterly line of Mississippi street to the northeasterly corner of Mississippi and Tulare streets; thence eastward along the northerly line of Tulare street to the northwesterly corner of Tulare street and Pennsylvania Avenue; thence northward along the westerly line of Pennsylvania Avenue to a point distant fifty feet southward from the southwesterly corner of Pennsylvania Avenue and Colusa street; thence westward and parallel with Colusa street two hundred feet to the point of commencement, being fractional Potrero block numbered two hundred and ninety-three, and portion of Potrero block numbered two hundred and ninety-four.

Twenty-eighth—That certain parcel of land circumscribed by a line commencing at a point on the easterly line of Mississippi street, four hundred and thirty-three feet southward from the southeasterly corner of Yolo and Mississippi streets; running thence southward along the easterly line of Mississippi street four hundred and thirty-three feet to the northeasterly corner of Mississippi and Colusa streets; thence eastward along the northerly line of Colusa street two hundred feet to the northwesterly corner of Colusa street and Pennsylvania Avenue; thence northward along the westerly line of Pennsylvania Avenue one hundred feet; thence westward and parallel with Colusa street one hundred feet; thence northward and parallel with Pennsylvania Avenue one hundred feet; thence eastward and parallel with Colusa street one hundred feet to the westerly line of Pennsylvania Avenue; thence northward along said westerly line of Pennsylvania Avenue fifty feet; thence westward and parallel with Colusa street one hundred feet; thence northward and parallel with Pennsylvania Avenue fifty feet; thence eastward and parallel with Colusa street one hundred feet to the westerly line of Pennsylvania Avenue; thence northward along said westerly line of Pennsylvania Avenue one hundred and thirty-three feet; thence westward and parallel with Colusa street two hundred feet to the point of commencement, being portion of Potrero Block numbered two hundred and ninety-five.

Twenty-ninth—That certain parcel of land circumscribed by a line commencing at a point on the easterly line of Mississippi street two hundred and fifty feet southward from the southeasterly corner of Yolo and Mississippi streets; running thence eastward and parallel with Yolo street one hundred feet; thence southward and parallel with Mississippi street fifty feet; thence westward and parallel with Yolo street, one hundred feet to the easterly line of Mississippi street; thence northward along said easterly line of Mississippi street, fifty feet to the point of commencement, being portion of Potrero Block, numbered two hundred and ninety-six.

Thirtieth—That certain parcel of land circumscribed by a line commencing at the southwest corner of Yolo and Iowa streets; thence southward along the westerly line of Iowa street one hundred and

fifty feet; thence westward and parallel with Yolo street one hundred feet; thence northward and parallel with Iowa street one hundred and fifty feet to the southerly line of Yolo street; thence eastward along said southerly line of Yolo street one hundred feet to the point of commencement, being portion of Potrero block numbered three hundred and twenty-five.

Thirty-first—That certain parcel of land and of land covered with water circumscribed by a line commencing at a point on the easterly line of Pennsylvania Avenue four hundred and thirty-three feet southward from the southeasterly corner of Yolo street and Pennsylvania Avenue; running thence southward along the easterly line of Pennsylvania Avenue three hundred and eighty-three feet; thence eastward and parallel with Yolo street one hundred feet; thence southward and parallel with Pennsylvania Avenue fifty feet to the northerly line of Colusa street; thence eastward along said northerly line of Colusa street one hundred feet to the northwesterly corner of Colusa and Iowa streets; thence northward along said westerly line of Iowa street four hundred and thirty-three feet; thence westward and parallel with Yolo street two hundred feet to the point of commencement, being portion of Potrero block numbered three hundred and twenty-six.

Thirty-second—That certain parcel of land and of land covered with water circumscribed by a line commencing at a point on the westerly line of Iowa street two hundred feet southward from the southwesterly corner of Colusa and Iowa streets; running thence westward and parallel with Colusa street one hundred feet; thence southward and parallel with Iowa street seventy-five feet; thence eastward and parallel with Colusa street one hundred feet to the westerly line of Iowa street; thence northward along said westerly line of Iowa street seventy-five feet to the point of commencement, being portion of Potrero block numbered three hundred and twenty-seven.

Thirty-third—That certain parcel of land and of land covered with water circumscribed by a line commencing at the northwesterly corner of Iowa and Marin streets; running thence westward along the northerly line of Marin street one hundred feet; thence northward and parallel with Iowa street fifty feet; thence eastward and parallel with Marin street one hundred feet to the westerly line of Iowa street; thence southward along said westerly line of Iowa street fifty feet to the point of commencement, being portion of Potrero block numbered three hundred and twenty-seven.

Thirty-fourth—That certain parcel of land and of land covered with water circumscribed by a line commencing at a point on the westerly line of Iowa street fifty feet southward from the southwest corner of Iowa and Marin streets; running thence westward and parallel with Marin street one hundred feet; thence southward and parallel with Iowa street to the northerly line of Tulare street; thence eastward along said northerly line of Tulare street to the northwesterly corner of Iowa and Tulare streets; thence northward along the westerly line of Iowa street to the point of commencement, being portion of Potrero block numbered three hundred and twenty-eight.

Thirty-fifth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the northeasterly corner of Iowa and Marin streets; thence eastward along the northerly line of Marin street two hundred feet to the northwesterly corner of Marin and Indiana streets; thence northward along the westerly line

of Indiana street four hundred feet to the southwesterly corner of Indiana and Colusa streets; thence westward along the southerly line of Colusa street one hundred feet; thence southward and parallel with Indiana street fifty feet; thence westward and parallel with Colusa street one hundred feet to the easterly line of Iowa street; thence southward along said easterly line of Iowa street three hundred and fifty feet to the point of beginning, being portion of Potrero block numbered three hundred and thirty.

Thirty-sixth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southwesterly corner of Yuba and Indiana streets; running thence westward along the southerly line of Yuba street one hundred feet; thence southward and parallel with Indiana street two hundred feet; thence eastward and parallel with Yuba street one hundred feet to the westerly line of Indiana street; thence northward along said westerly line of Indiana street two hundred feet to the point of commencement, being portion of Potrero block numbered three hundred and thirty-one.

Thirty-seventh—That certain parcel of land covered with water circumscribed by a line commencing at the southwesterly corner of Yolo and Indiana streets; running thence westward along the southerly line of Yolo street one hundred feet; thence southward and parallel with Indiana street fifty feet; thence westward and parallel with Yolo street one hundred feet to the easterly line of Iowa street; thence southward along the easterly line of Iowa street fifty feet; thence eastward and parallel with Yolo street one hundred feet; thence southward and parallel with Indiana street one hundred and twenty-five feet; thence westward and parallel with Yolo street one hundred feet to the easterly line of Iowa street; thence southward along the easterly line of Iowa street twenty-five feet; thence eastward and parallel with Yolo street one hundred feet; thence southward and parallel with Indiana street one hundred and fifty feet to the northerly line of Yuba street; thence eastward along the northerly line of Yuba street one hundred feet to the northwesterly corner of Yuba and Indiana streets; thence northward along the westerly line of Indiana street four hundred feet to the point of beginning, being portion of Potrero block numbered three hundred and thirty-two.

Thirty-eighth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Yolo and Indiana streets; thence southward along the easterly line of Indiana street four hundred feet to the northeasterly corner of Yuba and Indiana streets; thence eastward along the northerly line of Yuba street two hundred feet to the northwesterly corner of Yuba and Minnesota streets; thence northward along the westerly line of Minnesota street four hundred feet to the southwesterly corner of Minnesota and Yolo streets; thence westward along the southerly line of Yolo street two hundred feet to the point of beginning, being portion of Potrero block numbered three hundred and sixty-one.

Thirty-ninth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Yuba and Minnesota streets; running thence southward along the easterly line of Minnesota street four hundred feet, to the northeasterly corner of Minnesota and Colusa streets; run-

ning thence eastward along the northerly line of Colusa street two hundred feet to the northwesterly corner of Tennessee and Colusa streets; thence northward along the westerly line of Tennessee street three hundred and fifty feet; thence westward and parallel with Yuba street one hundred feet; thence northward and parallel with Tennessee street fifty feet, to the southerly line of Yuba street; thence westward along said southerly line of Yuba street one hundred feet to the point of commencement, being portion of Potrero block numbered three hundred and sixty-seven.

Fortieth—That certain parcel of land covered with water circumscribed by a line commencing at a point on the easterly line of Minnesota street fifty feet southward from the southeasterly corner of Minnesota and Yolo streets; running thence southward, along the easterly line of Minnesota street three hundred and fifty feet to the north-easterly corner of Yuba and Minnesota streets; thence eastward along the northerly line of Yuba street two hundred feet to the northwesterly corner of Yuba and Tennessee streets; thence northward along the westerly line of Tennessee street four hundred feet to the southwesterly corner of Tennessee and Yolo streets; thence westward along the southerly line of Yolo street one hundred feet; thence southward and parallel with Tennessee street fifty feet; thence westward and parallel with Yolo street, one hundred feet to the point of commencement, being portion of Potrero block numbered three hundred and sixty-eight.

Forty-first—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Tennessee and Yolo streets; running thence southward along the easterly line of Tennessee street four hundred feet to the north-easterly corner of Tennessee and Yuba streets; thence eastward along the northerly line of Yuba street one hundred feet; thence northward and parallel with Tennessee street fifty feet; thence eastward and parallel with Yuba street one hundred feet to the westerly line of Kentucky street; thence northward along the westerly line of Kentucky street two hundred and twenty-five feet; thence westward and parallel with Yolo street one hundred feet; thence northward and parallel with Kentucky street seventy-five feet; thence eastward and parallel with Yolo street one hundred feet to the westerly line of Kentucky street; thence northward along the easterly line of Kentucky street fifty feet to the southwesterly corner of Kentucky and Yolo streets; thence westward along the southerly line of Yolo street two hundred feet, to the point of commencement, being portion of Potrero block numbered three hundred and ninety-seven.

Forty-second—That certain parcel of land and of land covered with water circumscribed by a line commencing at a point on the easterly line of Tennessee street twenty-five feet southward from the southeasterly corner of Yuba and Tennessee streets; running thence southward along the easterly line of Tennessee street one hundred and twenty-five feet; thence eastward and parallel with Yuba street one hundred feet; thence northward and parallel with Tennessee street one hundred feet; thence eastward and parallel with Yuba street one hundred feet to the westerly line of Kentucky street; thence northward along said westerly line of Kentucky street fifty feet to the southwesterly corner of Kentucky and Yuba streets; thence westward along the southerly line of Yuba street one hun-

dred feet; thence southward and parallel with Kentucky street twenty-five feet; thence westward and parallel with Yuba street one hundred feet to the point of commencement, being portion of Potrero block numbered three hundred and ninety-eight.

Forty-third—That certain parcel of land and of land covered with water circumscribed by a line commencing at a point on the easterly line of Tennessee street fifty feet northward from the northeasterly corner of Tennessee and Colusa streets; running thence eastward and parallel with Colusa street two hundred feet to the westerly line of Kentucky street; thence northward along said westerly line of Kentucky street one hundred feet; thence westward and parallel with Colusa street two hundred feet to the easterly line of Tennessee street; thence southward along said easterly line of Tennessee street one hundred feet to the point of commencement, being portion of Potrero block numbered three hundred and ninety-eight.

Forty-fourth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Tennessee and Colusa streets; running thence southward along the easterly line of Tennessee street four hundred feet to the northeasterly corner of Tennessee and Marin streets; thence eastward along the northerly line of Marin street two hundred feet to the northwesterly corner of Marin and Kentucky streets; thence northward along the westerly line of Kentucky street four hundred feet to the southwesterly corner of Kentucky and Colusa streets; thence westward along the southerly line of Colusa street two hundred feet to the point of commencement, being the whole of Potrero block numbered three hundred and ninety-nine.

Forty-fifth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the northeasterly corner of Tulare and Tennessee streets; running thence easterly along the northerly line of Tulare street two hundred feet to the northwesterly corner of Kentucky and Tulare streets; thence northward along said westerly line of Kentucky street four hundred feet to the southwesterly corner of Kentucky and Marin streets; thence westward and along said southerly line of Marin street two hundred feet to the southeasterly corner of Tennessee and Marin streets; thence southerly along the easterly line of Tennessee street four hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred.

Forty-sixth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Yuba and Kentucky streets; running thence southward along the easterly line of Kentucky street four hundred feet to the northeasterly corner of Kentucky and Colusa streets; thence eastward along the northerly line of Colusa street two hundred feet to the northwesterly corner of Illinois and Colusa streets; thence northward along the westerly line of Illinois street four hundred feet to the southwesterly corner of Illinois and Yuba streets; thence westerly along the southerly line of Yuba street two hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred and three.

Forty-seventh—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Kentucky and Yolo streets; running thence southward

along the easterly line of Kentucky street four hundred feet to the northeasterly corner of Yuba and Kentucky streets; thence eastward along the northerly line of Yuba street two hundred feet to the northwesterly corner of Illinois and Yuba streets; thence northward along the westerly line of Illinois street four hundred feet to the southwesterly corner of Illinois and Yolo streets; thence westward along the southerly line of Yolo street two hundred feet to the point of commencement; being the whole of Potrero block numbered four hundred and four.

Forty-eighth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Yolo and Illinois streets; running thence southward along the easterly line of Illinois street four hundred feet to the northeasterly corner of Illinois and Yuba streets; thence eastward along the northerly line of Yuba street two hundred feet to the northwesterly corner of Yuba and Michigan streets; thence northward along the westerly line of Michigan street four hundred feet to the southwesterly corner of Michigan and Yolo streets; thence westward along the southerly line of Yolo street two hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred and thirty-three.

Forty-ninth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Illinois and Yuba streets; thence southward along the easterly line of Illinois street four hundred feet to the northeasterly corner of Illinois and Colusa streets; thence eastward along the northerly line of Colusa street two hundred feet to the northwesterly corner of Michigan and Colusa streets; thence northward along the westerly line of Michigan street four hundred feet to the southwesterly corner of Michigan and Yuba streets; thence westward along the southerly line of Yuba street two hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred and thirty-four.

Fiftieth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Illinois and Colusa streets; running thence southward along the easterly line of Illinois street four hundred feet to the northeasterly corner of Illinois and Marin streets; thence eastward along the northerly line of Marin street two hundred feet to the northwesterly corner of Michigan and Marin streets; thence northward along the westerly line of Michigan street four hundred feet to the southwesterly corner of Michigan and Colusa streets; thence westward along the southerly line of Colusa street two hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred and thirty-five.

Fifty-first—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Illinois and Marin streets; running thence southward along the easterly line of Illinois street four hundred feet to the northeasterly corner of Illinois and Tulare streets; thence eastward along the northerly line of Tulare street two hundred feet to the northwesterly corner of Michigan and Tulare streets; thence northward along the westerly line of Michigan street four hundred feet to the southwesterly corner of Michigan and Marin streets; thence westward along the southerly line of Marin street two hundred feet to the point of

commencement, being the whole of Potrero block numbered four hundred and thirty-six.

Fifty-second—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Michigan and Marin streets, running thence southward along the easterly line of Michigan street four hundred feet to the northwesterly corner of Michigan and Tulare streets; thence eastward along the northerly line of Tulare street two hundred feet to the northwesterly corner of Tulare and Georgia streets; thence northward along the westerly line of Georgia street four hundred feet to the southwesterly corner of Georgia and Marin streets; thence westward along the southerly line of Marin street two hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred and thirty-seven.

Fifty-third—That certain parcel of land and of land covered with water circumscribed by a line commencing at the northwesterly corner of Marin and Georgia streets; running thence westward along the northerly line of Marin street one hundred feet; thence northward and parallel with Georgia street fifty feet; thence eastward and parallel with Marin street one hundred feet to the westerly line of Georgia street; thence southward along said westerly line of Georgia street fifty feet to the point of commencement, being a portion of Potrero block numbered four hundred and thirty-eight.

Fifty-fourth—That certain parcel of land circumscribed by a line commencing at the southwesterly corner of Georgia and Yuba streets; running thence westward and along the southerly line of Yuba street one hundred feet; thence southward and parallel with Georgia street fifty feet; thence eastward and parallel with Yuba street one hundred feet to the westerly line of Georgia street; thence northward along the westerly line of Georgia street fifty feet to the point of commencement, being a portion of Potrero block numbered four hundred and thirty-nine.

Fifty-fifth—That certain parcel of land and of land covered with water circumscribed by a line commencing at a point on the easterly line of Michigan street fifty feet southward from the southeasterly corner of Michigan and Yolo streets; thence southward along the easterly line of Michigan street seventy-five feet; thence eastward and parallel with Yolo street one hundred feet; thence northward and parallel with Michigan street seventy-five feet; thence westward and parallel with Yolo street one hundred feet to the point of commencement, being a portion of Potrero block numbered four hundred and forty.

Fifty-sixth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Georgia and Yolo streets; running thence southward and along the easterly line of Georgia street four hundred feet to the northeasterly corner of Georgia and Yuba streets; thence eastward along the northerly line of Yuba street two hundred feet to the northwesterly corner of Yuba and Louisiana streets; thence northward along the westerly line of Louisiana street four hundred feet to the southwesterly corner of Louisiana and Yolo streets; thence westward along the southerly line of Yolo street two hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred and sixty-seven.

Fifty-seventh—That certain parcel of land and of land covered with

water circumscribed by a line commencing at the southeasterly corner of Yuba and Georgia streets; thence southward along the easterly line of Georgia street four hundred feet to the northeasterly corner of Georgia and Colusa streets; thence eastward along the northerly line of Colusa street two hundred feet to the northwesterly corner of Louisiana and Colusa streets; thence northward along the westerly line of Louisiana street four hundred feet to the southwesterly corner of Louisiana and Yuba streets; thence westward along the southerly line of Yuba street two hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred and sixty-eight.

Fifty-eighth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Georgia and Marin streets; thence southward along the easterly line of Georgia street four hundred feet to the northeasterly corner of Georgia and Tulare streets; thence eastward along the northerly line of Tulare street two hundred feet to the northwesterly corner of Tulare and Louisiana streets; thence northward along the westerly line of Louisiana street four hundred feet to the southwesterly corner of Louisiana and Marin streets; thence westward along the southerly line of Marin street two hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred and seventy.

Fifty-ninth—That certain parcel of land and of land covered with water commencing at the southeasterly corner of Marin and Louisiana streets; running thence southward along the easterly line of Louisiana street four hundred feet to the northeasterly corner of Louisiana and Tulare streets; thence eastward along the northerly line of Tulare street two hundred feet to the northwesterly corner of Tulare and Maryland streets; thence northward along the westerly line of Maryland street four hundred feet to the southwesterly corner of Maryland and Marin streets; thence westward along the southerly line of Marin street two hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred and seventy-one.

Sixtieth—That certain parcel of land and of land covered with water circumscribed by a line commencing at a point on the easterly line of Louisiana street one hundred and twenty-five feet northward from the northeasterly corner of Louisiana and Marin streets; running thence eastward and parallel with Marin street one hundred feet; thence northward and parallel with Louisiana street seventy-five feet; thence westward and parallel with Main street one hundred feet to the easterly line of Louisiana street; thence southward along said easterly line of Louisiana street seventy-five feet to the point of commencement, being portion of Potrero block numbered four hundred and seventy.

Sixty-first—That certain parcel of land and of land covered with water circumscribed by a line commencing at a point on the westerly line of Delaware street one hundred and twenty-five feet southward from the southwesterly corner of Yolo and Delaware streets; running thence westward and parallel with Yolo street one hundred feet; thence southward and parallel with Delaware street seventy-five feet; thence eastward and parallel with Yolo street one hundred feet to the westerly line of Delaware street; thence northward along said

westerly line of Delaware street seventy-five feet to the point of commencement, being a portion of Potrero block numbered four hundred and ninety-three.

Sixty-second—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Maryland and Yuba streets; thence southward along the easterly line of Maryland street four hundred feet to the northeasterly corner of Maryland and Colusa streets; thence eastward along the northerly line of Colusa street two hundred feet to the northwesterly corner of Colusa and Delaware streets; thence northward along the westerly line of Delaware street four hundred feet to the southwesterly corner of Delaware and Yuba streets; thence westward along the southerly line of Yuba street two hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred and ninety-four.

Sixty-third—That certain parcel of land and of land covered with water circumscribed by a line commencing at the northeasterly corner of Maryland and Tulare streets; running thence eastward along the northerly line of Tulare street two hundred feet to the northwesterly corner of Delaware and Tulare streets; thence northward along the westerly line of Delaware street one hundred and twenty-five feet; thence westward and parallel with Tulare street two hundred feet to the easterly line of Maryland street; thence southward along said easterly line of Maryland street one hundred and twenty-five feet to the point of beginning, being portion of Potrero block numbered four hundred and ninety-six.

Sixty-fourth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Delaware and Marin streets; running thence southward along the easterly line of Delaware street four hundred feet to the northeasterly corner of Delaware and Tulare streets; thence eastward along the northerly line of Delaware street two hundred feet to the northwesterly corner of Tulare and Massachusetts streets; thence northward along the westerly line of Massachusetts street four hundred feet to the southwesterly corner of Massachusetts and Marin streets; thence westward along the southerly line of Marin street two hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred and ninety-seven.

Sixty-fifth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Colusa and Delaware streets; running thence southward along the easterly line of Delaware street four hundred feet to the northeasterly corner of Delaware and Marin streets; thence eastward along the northerly line of Marin street two hundred feet to the northwesterly line of Massachusetts and Marin streets; thence northward along the westerly line of Massachusetts street four hundred feet to the southwesterly corner of Massachusetts and Colusa streets; thence westward along the southerly line of Colusa street two hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred and ninety-eight.

Sixty-sixth—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Delaware and Yuba streets; running thence southward along the eastward line of Delaware street four hundred feet to the northeasterly corner of Delaware and Colusa streets; thence eastward

along the northerly line of Colusa street two hundred feet to the northwest corner of Massachusetts and Colusa streets; thence northward along the westerly line of Massachusetts street four hundred feet to the northwesterly corner of Massachusetts and Yuba streets; thence westward along the southerly line of Yuba street two hundred feet to the point of commencement, being the whole of Potrero block numbered four hundred and ninety-nine.

Sixty-seventh—That certain parcel of land and of land covered with water circumscribed by a line commencing at the southeasterly corner of Yolo and Delaware streets, running thence southward along the easterly line of Delaware street four hundred feet to the northeasterly corner of Delaware and Yuba streets; thence eastward along the northerly line of Yuba street two hundred feet to the northwesterly corner of Massachusetts and Yuba streets; thence northward along the westerly line of Massachusetts street four hundred feet to the southwesterly corner of Massachusetts and Yolo streets; thence westward along the southerly line of Yolo street two hundred feet to the point of commencement, being the whole of Potrero block numbered five hundred.

And the said party of the first part, for the purposes and for the consideration aforesaid, hath also granted, bargained, sold, conveyed, and confirmed, and by these presents doth grant, bargain, sell, convey, and confirm unto the said party of the second part, and to its successors and assigns, forever, all the hereinafter described parcels of land situate in said San Francisco, and particularly described as follows:

Sixty-eighth—All that certain parcel of land circumscribed by a line commencing at a point on the easterly line of Carolina street three hundred feet southward from the southeasterly corner of Carolina and Yolo streets; thence southward along said easterly line of Carolina street one hundred and thirty-three feet; thence eastward and parallel with Yolo street one hundred feet; thence northward and parallel with Carolina street one hundred and thirty-three feet; thence westward and parallel with Yolo street one hundred feet to the point of beginning, being a portion of Potrero block numbered one hundred and ninety.

Sixty-ninth—All that certain parcel of land circumscribed by a line commencing at a point on the easterly line of Pennsylvania Avenue one hundred and fifty feet southward from the southeasterly corner of Pennsylvania Avenue and Yolo street; thence southward along said easterly line of Pennsylvania Avenue one hundred feet; thence eastward and parallel with Yolo street one hundred feet; thence northward and parallel with Pennsylvania Avenue one hundred feet; thence westward and parallel with Yolo street one hundred feet to the point of commencement, being a portion of Potrero block numbered three hundred and twenty-five.

Together with all and singular, the tenements, hereditaments, and appurtenances, to aforesaid lands belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits, thereof; and, also, all the right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in, or to the same and every part and parcel thereof, with the appurtenances.

To have and to hold the above granted and described premises with the appurtenances unto the said party of the second part, its successors and assigns, to its and their own proper use, benefit, and

behalf, forever; *provided*, always, and these presents are upon this express condition, that if the said party of the first part, his heirs, executors, or administrators, shall well and truly pay unto the said party of the second part, its successors or assigns, the said sum of money secured to be paid by the said promissory note and the interest thereon, at the time and in manner mentioned in the same, according to the true intent and meaning thereof; and, also, to pay the other moneys hereinafter agreed to be paid as herein provided, then these presents, and the estate hereby granted, shall cease, determine, and be void. And the said party of the first part, for himself, his heirs, executors, and administrators, does covenant and agree to pay unto the said party of the second part, its successors or assigns, the said sum of money and interest, as mentioned above, and secured to be paid as aforesaid. And if default be made in the payment of the said promissory note, or of the interest that may grow due thereon, or of any part thereof, then the whole of said principal sums shall become due and payable, and it shall be lawful for the said party of the second part, its successors and assigns, to enter into and upon all and singular the premises hereby granted or intended so to be, and to sell and dispose of the same, and all benefits and equity of redemption of the said party of the first part, his heirs, executors, administrators, or assigns therein, at public auction, according to law, and under the direction and decree of some Court of competent jurisdiction, and out of the money arising from such sale to retain the principal and interest which shall then be due on the said promissory note, together with the costs and charges for advertisement and sale of said premises and of suit for foreclosure, including counsel fees at the rate of five per cent. upon the amount due, to become payable on filing a complaint for foreclosure, or to recover the amount which may become due hereon, and also the amount of all such payments of taxes, assessments, or incumbrances as may have been made by the said party of the second part, its successors or assigns, by reason of the permission hereinafter given, with the interest on the same hereinafter allowed, rendering the overplus of the purchase money, if any there shall be, unto the said party of the first part, his heirs, executors, administrators, or assigns.

And the said party of the first part further covenants and agrees with the said party of the second part, to pay and discharge at maturity all liens and incumbrances now subsisting, and also all taxes, charges, and assessments which are now or may hereafter be imposed upon said land and premises, or upon any part thereof (and upon this mortgage, or the moneys hereby secured during its continuance); and in default thereof, the said party of the second part shall have the right to pay and discharge the same, and shall be the sole judge of the legality of all such liens, incumbrances, taxes, assessments, or other charges, and the sum so paid shall bear interest at the rate of two per cent. per month from the time of payment by the party of the second part, and shall be and is hereby secured by these presents, and be a lien upon said premises, and shall be deducted from the proceeds of the sale thereof above mentioned, with interest as herein provided. All moneys payable by the party of the first part, arising or accruing under any of the terms or provisions of this mortgage, shall be paid in the gold coin of the United States, of the standard of the year one thousand eight hundred and seventy-five.

In witness whereof, the said party of the first part hath hereunto set his hand and seal, the day and year first above written.
JOHN BENSLEY. [SEAL.]

Signed, sealed, delivered, and *duly stamped* in the presence of
SAM'L HERMANN.

The word "north," on line nineteen (19), page fifteen (15), and the word "hundred," on line sixteen (16), page thirty-five (35), interlined before execution.

STATE OF CALIFORNIA,
City and County of San Francisco, } ss.

On this twenty-fourth day of November, in the year one thousand eight hundred and seventy-five, before me, Samuel Hermann, a Notary Public in and for the said city and county, duly commissioned and sworn, personally appeared John Bensley, known to me to be the person whose name is subscribed to the within and annexed instrument, and he, the said John Bensley, duly acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.
[SEAL.]

SAM'L HERMANN, Notary Public.

A true copy of an original, recorded at the request of the Nevada Bank of San Francisco, November twenty-fourth, one thousand eight hundred and seventy-five, at fifty minutes past two P. M.

O. H. FRANK, County Recorder.
(Liber four hundred and fifty-seven of mortgages, page one.)

STATE OF CALIFORNIA,
City and County of San Francisco, } ss.

I, Otto H. Frank, County Recorder in and for the City and County of San Francisco, do hereby certify that the annexed is a whole, true, and correct copy of an original record, as will appear by reference to book four hundred and fifty-seven of mortgages, page one, now in my office; and that said copy has been compared with the original, and is a correct transcript therefrom.

In testimony whereof, I have hereunto set my hand and affixed my official seal, this twenty-sixth day of January, A. D. one thousand eight hundred and seventy-six.
[SEAL.]

O. H. FRANK, County Recorder.

EXHIBIT C.

CERTIFIED LIST FROM THE TAX COLLECTOR'S OFFICE, SAN FRANCISCO, OF
THE REAL ESTATE EMBRACED IN THE GOLDEN CITY
HOMESTEAD ASSOCIATION.

Vol.	Page	Block	Sub.	Description of property.	Valuation.
8	100	183	1	Lot northwest corner Colusa and Carolina streets, thence west 200 feet, north 157 feet, east 200 feet, south 157 feet	\$800
			184		
			185		
	103	186	1	Lot northwest corner Tulare and Carolina streets, thence north 433 feet, west 200 feet, south 323 feet to line of creek, thence along said line to north line of Tulare street, thence east 55 feet to beginning	1,800
			2	Lot west line Carolina street 433 feet north from Tulare street, thence north 283 feet, west 100 feet, north 25 feet, west 100 feet, south 308 feet, east 200 feet to beginning	
			5	Lot southwest corner of Colusa and Carolina streets, thence south 50 feet, west 100 feet, south 50 feet, west 100 feet, north 100 feet, east 200 feet	
	105	187	1	Lot northeast corner of Tulare and Carolina streets, thence north 433 feet, east 200 feet, south on Wisconsin street to line of creek, thence southwest along line of creek to Tulare street, thence west 50 feet to beginning	1,800
			5	Lot southwest corner Colusa and Wisconsin streets, thence west 100 feet, south 250 feet, east 100 feet, north 250 feet	
			11	Lot east line Carolina street 250 feet south from Colusa street, thence south 183 feet, east 100 feet, north 183 feet, west 100 feet	
	106	189	1	Lot northwest corner of Colusa and Wisconsin streets, thence north 350 feet, west 100 feet, south 150 feet, west 100 feet, south 150 feet, east 100 feet, south 50 feet, east 100 feet to beginning	1,800
			3	Lot west line Wisconsin street 300 feet south from Yolo street, thence south 133 feet, west 200 feet, north 133 feet, east 200 feet	
	121	217	1	Lot northwest corner Colusa and Arkansas streets, thence west 200 feet, north 420½ feet, east 80 feet, north 12½ feet, east 120 feet, south 433 feet	3,000
			7	Lot southwest corner Colusa and Arkansas streets, thence south 350 feet, west 200 feet, north 50 feet, east 100 feet, north 50 feet, west 100 feet, north 250 feet, east 200 feet	
	123	219	11	Lot east line Wisconsin street 433 feet south from Colusa street, thence south 133 feet, east 100 feet, north 133 feet, west 100 feet	500
			1	Lot west line Connecticut street 516 feet south from Colusa street, thence south 312½ feet to line of creek, thence along said line to Arkansas street, thence north 262½ feet more or less to land assessed to L. Juri, thence east 100 feet, thence north 50 feet, thence east 100 feet to beginning	
	125	221	3	Lot west line Connecticut street 100 feet north from Colusa street, thence north 100 feet, west 100 feet, north 50 feet, east 100 feet, north 100 feet, west 100 feet, north 83 feet, west 100 feet, south 433 feet, east 100 feet, north 100 feet, east 100 feet to beginning	1,800
			6	Lot west line Connecticut street 100 feet south from Yolo street, thence south 333 feet, west 200 feet, north 133 feet, east 100 feet, north 200 feet, east 100 feet to beginning	
	127	223			1,600
			224		

Vol.	Page	Block	Sub.	Description of property.	Valuation.
8	144	253	4	Lot west line Missouri street 291½ feet north from Colusa street, thence north 141½ feet, west 200 feet, south 141½ feet, east 200 feet	\$1,000
			5	Lot southwest corner of Yolo and Missouri streets, thence south 433 feet, west 200 feet, north 433 feet, east 200 feet	
			7	Lot northeast corner Colusa and Connecticut streets, thence north 100 feet, east 100 feet, south 100 feet, west 100 feet	
	145	255	1	Lot west line Missouri street 516 feet south from Colusa street, thence south 167 feet to Tulare street, thence southwest on said line of street to Connecticut street, thence north 192 feet to line of land assessed to Fred. Mason, thence east 100 feet, thence north 50 feet, east 100 feet to beginning	450
			4	Lot west line of Missouri street 150 feet south from Colusa street, thence south 150 feet, west 100 feet, south 50 feet, west 100 feet, north 150 feet, east 100 feet, north 50 feet, east 100 feet	
			7	Lot southwest corner Colusa and Missouri streets, thence south 50 feet, thence west 100 feet, north 50 feet, east 100 feet	
	146	257	10	Lot east line Connecticut street 100 feet south from Colusa street, thence south 50 feet, east 100 feet, north 50 feet, west 100 feet	200
			1	Lot west line of Texas street 433 feet south from Colusa street, thence south 155 feet to Tulare street, thence southwest along said line to Missouri street, thence north 230 feet, east 200 feet to beginning	
			2	Lot southwest corner Colusa and Texas streets, thence south 433 feet, west 200 feet, north 433 feet, east 200 feet	
	147	259	2	Lot northwest corner Colusa and Texas streets, thence north 100 feet, west 100 feet, north 50 feet, east 100 feet, north 283 feet, west 200 feet, south 383 feet, east 100 feet, south 50 feet, east 100 feet	2,350
			11	Lot southwest corner Yolo and Texas streets, thence south 50 feet, west 200 feet, north 50 feet, east 200 feet	
			1	Lot southeast corner Yolo and Texas streets, thence south 50 feet, east 100 feet, north 50 feet, west 100 feet	
	148	289	16	Lot northeast corner Colusa and Texas streets, thence north 433 feet, east 200 feet, south 333 feet, west 100 feet, south 100 feet, west 100 feet to beginning	2,350
			7	Lot southwest corner Colusa and Mississippi streets, thence south 433 feet, west 100 feet, north 83 feet, west 100 feet, north 100 feet, east 100 feet, north 200 feet, west 100 feet, north 50 feet, east 200 feet to beginning	
			1	Lot west line of Pennsylvania street 433 feet south from Colusa street, thence south 183 feet, northwest 190 feet, west 20 feet, north 103 feet, east 200 feet to beginning	
	167	290	2	Lot west line Pennsylvania street 50 feet south from Colusa street, thence south 383 feet, west 200 feet, north 383 feet, east 200 feet	450
			1	Lot northwest corner Colusa and Pennsylvania streets, west 200 feet, north 433 feet, east 200 feet, south 133 feet, west 100 feet, south 50 feet, east 100 feet, south 50 feet, west 100 feet, south 100 feet, east 100 feet, south 100 feet to beginning	
			19	Lot east line Mississippi street 250 feet south from Yolo street, thence south 50 feet, east 100 feet, north 50 feet, west 100 feet to beginning	
	169	291	2	Lot southwest corner Yolo and Iowa streets, thence south 150 feet, west 100 feet, south 100 feet, west 100 feet, north 200 feet, east 100 feet, north 50 feet, east 100 feet to beginning	1,350
			10	Lot northwest corner Colusa and Iowa streets, thence north 433 feet, west 200 feet, south 383 feet, east 100 feet, south 50 feet, east 100 feet	
			1	Lot northwest corner Marin and Iowa streets, thence north 50 feet, west 100 feet, south 50 feet, east 100 feet	
	170	293	1	Lot west line Iowa street 50 feet south from Marin street, thence south 276.9 feet, thence northwest along the line of Tulare street 109 feet, thence north 182.9 feet, thence east 100 feet to beginning	200
			1	Lot northwest corner Main and Indiana streets, thence north 400 feet, west 100 feet, south 50 feet, west 100 feet, south 350 feet, east 200 feet	

Vol.	Page	Block	Sub.	Description of property.	Valuation.
8					
	199	331	4	Lot southwest corner Yuba and Indiana streets, thence west 100 feet, south 200 feet, east 100 feet, north 200 feet.	\$ 350
		332	1	Lot northwest corner of Yuba and Indiana streets, north 400 feet, west 100 feet, south 50 feet, west 100 feet, south 50 feet, east 100 feet, south 125 feet, west 100 feet, south 25 feet, east 100 feet, south 150 feet, east 100 feet to beginning.	900
	213	361	1	New Potrero block 361 entire, bounded by Yuba, Minnesota, Yolo and Indiana streets.	1,450
	223	367	1	Lot northwest corner Colusa and Tennessee streets, thence north 350 feet, west 100 feet, north 50 feet, west 100 feet, south 400 feet, east 200 feet.	1,500
	223	368	1	Lot northwest corner of Yuba and Tennessee streets, thence north 400 feet, west 100 feet, south 50 feet, west 100 feet, south 350 feet, east 200 feet to beginning.	1,500
	239	397	2	Lot northeast corner of Yuba and Tennessee streets, thence east 100 feet, north 50 feet, east 100 feet, north 200 feet, west 100 feet, north 75 feet, east 100 feet, north 50 feet, west 200 feet, south 400 feet.	1,350
	240	398	2	Lot west line Kentucky street, 50 feet north from Colusa street, thence north 100 feet, west 200 feet, south 100 feet, east 200 feet.	400
			7	Lot southwest corner Yuba and Kentucky streets, thence south 50 feet, west 100 feet, south 100 feet, west 100 feet, north 125 feet, east 100 feet, north 25 feet, east 100 feet.	350
	242	399	1	Entire New Potrero block number 399, bounded by Marin, Kentucky, Colusa and Tennessee streets.	1,600
	242	400	1	Entire New Potrero block number 400, bounded by Tulare, Kentucky, Marin and Tennessee streets.	1,600
	243	403	1	Entire New Potrero block number 403, bounded by Colusa, Illinois, Yuba and Kentucky streets.	1,600
		404	1	Entire New Potrero block number 404, bounded by Yuba, Illinois, Yolo and Kentucky streets.	1,600
	256	433	1	Entire New Potrero block number 433, bounded by Yuba, Michigan, Yolo and Illinois streets.	1,600
		434	1	Entire New Potrero block number 434, bounded by Colusa, Michigan, Yuba and Illinois streets.	1,600
		435	1	Entire New Potrero block number 435, bounded by Marin, Michigan, Colusa and Illinois streets.	1,600
	257	436	1	Entire New Potrero block number 436, bounded by Tulare, Michigan, Marin and Illinois streets.	1,600
		437	1	Entire New Potrero block number 437, bounded by Tulare, Georgia, Marin and Michigan streets.	1,600
	258	438	1	Lot northwest corner of Marin and Georgia streets, thence north 50 feet, west 100 feet, south 50 feet, east 100 feet.	100
	260	439	6	Lot southwest corner of Georgia and Yuba streets, thence 50 feet, west 100 feet, north 50 feet, east 100 feet.	100
	263	440	8	Lot east line Michigan street 50 feet south from Yolo street, thence south 75 feet, east 100 feet, north 75 feet, west 100 feet.	150
	274	467	1	Entire block number 467, New Potrero, bounded by Yuba, Louisiana, Yolo and Georgia streets.	1,600
		468	1	Entire New Potrero block number 468, bounded by Colusa, Louisiana, Yuba and Georgia streets.	1,600
	276	469	10	Lot east line of Georgia street 125 feet north from Marin street, thence north 75 feet, east 100 feet, south 75 feet, west 100 feet.	150
	277	470	1	Entire New Potrero block number 470, bounded by Tulare, Louisiana, Marin and Georgia streets.	1,600
		471	1	Entire New Potrero block number 471, bounded by Tulare, Maryland, Marin and Louisiana streets.	1,600
	279	472	10	Lot east line Louisiana street 125 feet north from Marin street, thence north 75 feet, east 100 feet, south 75 feet, west 100 feet.	150
	287	493	4	Lot west line Delaware street, 125 feet south from Yolo street, thence south 75 feet, west 100 feet, north 75 feet, east 100 feet.	150
	289	494	1	Entire New Potrero block number 494, bounded by Colusa, Delaware, Yuba and Maryland streets.	1,600
	290	496	1	Lot northwest corner Tulare and Delaware streets, thence north 125 feet, west 200 feet, south 125 feet, east 200 feet.	500
	291	497	1	Entire New Potrero block number 497, bounded by Tulare, Massachusetts, Marin and Delaware streets.	1,600

Vol.	Page	Block	Sub.	Description of property.	Valuation.
8					
		498	1	Entire new Potrero block number 498, bounded by Marin, Massachusetts, Colusa and Delaware streets.	\$1,600
	292	499	1	Entire New Potrero block number 499, bounded by Colusa, Massachusetts, Yuba and Delaware streets.	1,600
		500	1	Entire New Potrero block number 500, bounded by Yuba, Massachusetts, Yolo and Delaware streets.	1,600
				<i>Mason & Bensley and W. P. Humphreys.</i>	
	223	368	2	Lot southeast corner Yuba and Minnesota streets, thence south 50 feet, east 100 feet, north 50 feet, west 100 feet.	100
				<i>Fred. Mason.</i>	
	107	189	16	Lot east line Carolina street 350 feet north from Colusa street, thence north 83 feet, east 100 feet, south 83 feet, west 100 feet.	250
	146	255	12	Lot east line Connecticut street 433 feet south from Colusa street, thence south 133 feet, east 100 feet, north 133 feet, west 100 feet.	550
	169	291	8	Lot east line Texas street 433 feet south from Colusa street, thence south 90 feet to Tulare street, thence southeast along said street to Mississippi street, thence north 95 feet to land of Mason & Bensley, thence west 200 feet to beginning.	200
	172	295	21	Lot east line Mississippi street 350 feet south from Yolo street, thence south 83 feet, east 100 feet, north 83 feet, west 100 feet.	250
	217	364	1	Lot northwest corner Tulare and Minnesota streets, thence west 50 feet, north 125 feet, east 50 feet, south 125 feet.	100
	220	365	12	Lot north line Tulare street 100 feet east from Minnesota street, thence east 50 feet, north 125 feet, west 50 feet, south 125 feet.	100
	239	397	1	Lot northwest corner Yuba and Kentucky streets, thence north 50 feet, west 100 feet, south 50 feet, east 100 feet.	100
	259	438	8	Lot east line Michigan street 50 feet from Colusa street, thence south 75 feet, east 100 feet, north 75 feet, west 100 feet.	150

I hereby certify that the foregoing is a full and true description of all real estate embraced within the Golden City Homestead Association, assessed in the name of Frederick Mason, John Bensley and Mason & Bensley, as appears from the real estate assessment roll for the City and County of San Francisco, for the fiscal years eighteen hundred and seventy-five and eighteen hundred and seventy-six.

[SEAL.]

H. B. COOK,
Deputy Tax Collector City and County San Francisco.

EXHIBIT D.

STATEMENT OF JOHN BENSLEY.

Hon. J. W. Wilcox, Chairman Committee:

Under the resolution passed at the last meeting of your committee, I have given the subject-matter such reflection as other engagements permit, and regret that, owing to the loss of books, as heretofore stated in evidence before your committee, I am unable to furnish the details as required.

The association was organized in eighteen hundred and sixty-four, and the record of all its proceedings was placed in the hands of the former investigating committee, since which time it has not been seen by any of the parties interested in the property. The statement made before this committee tending to implicate me in their loss is wholly false. We made application through the Hon. Creed Haymond, who was our attorney in the former investigation, and subsequently to F. S. Lardner, who, I think, was Sergeant-at-Arms at the time, for their recovery after the adjournment of that Legislature, but were unable to obtain any clue to their whereabouts. If they can be found, these books will harmonize with the following facts:

First—That after due organization and adoption of by-laws, etc., a purchase was made by the association of one hundred acres of land, for which the sum of one hundred thousand dollars was to be paid to the owners, among whom were F. Mason, Wm. H. Moor, James Whitney, Wm. Shearman, and others, with myself. The terms of that purchase were the payment of twenty thousand dollars at the end of the first four months, and five thousand dollars per month subsequently thereto, until the entire sum was paid. The source from which the association drew its funds was, first, the payment of monthly installments of ten dollars on each share, until two hundred dollars had been paid in; and second, the power of assessing each share in a sum not exceeding twenty dollars in the aggregate, for the payment of necessary expenses. The purchase and sale were not conditioned upon any grant from the State, but it was understood that all legitimate effort should be made, by both buyers and sellers, for the obtaining of certain tide lands in front of property purchased by them as aforesaid, which title was obtained in due time under the Act of the Legislature.

Second—The articles of association provided, to the best of my recollection, that no one person should hold more than five shares of stock. It was found difficult to secure enough subscribers for all this stock, and some persons were induced by Mr. Mason, myself, and others, to subscribe for the purpose of closing up the business within the two years provided for in the certificate of incorporation, with this implied understanding, that if they did not wish to retain them at the close, we would take them off their hands. Some time in the second year, I believe, the articles of association limiting the number of shares to be held by one person, was unanimously changed by the method appointed in the articles for their own amendment, so that any one person could hold all the shares he was able to obtain.

Third—As I suppose is the case in all corporations, sales were not unfrequent of the stock in this association, and at the time of the distribution of the property, towards the close of eighteen hundred and sixty-five, all persons then owning stock were entitled to the amount of land to which each share was entitled, upon the basis of one upland lot of fifty by one hundred, and one water lot, varying from fifty by one hundred to seventy-five by one hundred, according to whether it was or was not a corner lot. The whole number of shares being five hundred, the whole number of lots distributed must have been one thousand. I have no means of knowing, except from the County Recorder's office, the number of deeds given from the association, but am confident it was not less than one hundred, and think it was more.

Fourth—Before the lands were distributed, and after the removal of the five-share restriction, Mr. Mason and myself, not less than others, took occasion, as opportunity offered, to secure shares of stock. How many we purchased and sold I cannot tell. An abstract of the property would show conclusively how many of the shares we held at the time of distribution. Among the parties from whom we purchased I am not now able to specify names, other than the following, but have no doubt there were others, viz: James McMeenan, F. W. Gill, F. D. Kellogg, Alfred Wheeler, Henry Wattson, S. O. Putnam, Philo Mills, Edwin Davis, and F. Dumarthery.

Since the land was distributed we have bought and sold when it seemed desirable. Among the parties to whom we have sold, I recall, after much reflection, the following parties: John Curry, S. P. Dewey, B. M. Hartshorn, John Fisher, Bridget Myers, Eugene Dewey, Mary Herrold, Joachimsen, Miss McIntyre, John Pforr, F. S. Wansinger, E. Bonnell, M. Buggin, W. Hall; and there are probably others I cannot recollect.

Most of the purchases and sales of land for the last eight years have been made through Mr. Mason and his agents.

I am of the opinion that there were over one hundred different bona fide owners of lots at the distribution in eighteen hundred and sixty-five, and that at the present time there are at least two hundred different owners of the lots derived from the Golden City Association.

Fifth—While I thus answer, so far as able, the questions included under the resolution of the committee, I desire to protest against the whole of the present proceedings, as unjust and useless, because (a) the whole subject has been once thoroughly investigated by a legislative committee nearly six years ago, at a time when the facts were all still fresh in mind, and with the aid of the most important books

and documents of the association, which during that very investigation seemed to have been lost, and in any event are not now to be found, and that from no fault of mine. (b) There was not the slightest taint of fraud in all the proceedings, by means of which the patent was issued. Even the persons who now seek to bring discredit upon the title seem to ground their efforts upon the fact that no money was used to induce the Legislature to pass the Act. (c) Every provision of the Act of the Legislature, under which that patent issued, was literally complied with. The State appointed its own appraisers of value; the appraisers, after careful investigation, being under oath to properly perform their duty, stated the value of the property; and the full amount so stated was paid into the treasury of the State before the patent issued. The fact that property in the City and County of San Francisco has increased in value during the past twelve years cannot by any stretch of power be taken as evidence of fraud, or violation of any equity, expressed or implied.

All of which is respectfully submitted.

JOHN BENSLEY.

EXHIBIT F.

COPY OF ARTICLES OF INCORPORATION OF THE GOLDEN CITY HOMESTEAD ASSOCIATION.

STATE OF CALIFORNIA, }
City and County of San Francisco. }

We, the undersigned, residents and citizens of the State of California, do hereby certify that we have associated ourselves for the purpose of forming, and have formed, a corporation under and in pursuance of an Act of the Legislature of the State of California, approved May twentieth, A. D. eighteen hundred and sixty-one, entitled "An Act to authorize the formation of corporations to provide the members thereof with homesteads, or lots of land suitable for homesteads;" that the name of the corporation so formed is the "Golden City Homestead Association."

That the objects of said corporation are as follows, to wit: the purchase of certain lands in the City and County of San Francisco for homestead purposes, and the improving of the same.

The capital stock of this corporation shall be the sum of one hundred thousand dollars, and shall be divided into five hundred shares of two hundred dollars each.

The said corporation to continue in existence for the period of two years from the date of filing in the office of the County Clerk of the City and County of San Francisco these articles of incorporation, unless sooner dissolved in the manner provided by law.

The number of Trustees, or Directors, who shall manage the affairs of said corporation for the first three months, shall be nine, and they shall be known as the Board of Directors of the Golden City Homestead Association, and their names are as follows: Earl Bartlett, John Stock, Charles Elliot, Thaddeus R. Brooks, E. M. Casey, Louis Brunner, Peter A. Giannini, William Blackwood, and Samuel I. C. Sweezy.

The right to increase or diminish the capital stock of said corporation is hereby reserved.

The office and principal place of business of said corporation shall be at the City and County of San Francisco.

In witness whereof, we have hereunto set our hands and seals this second day of January, A. D. one thousand eight hundred and sixty-four.

EARL BARTLETT,	[SEAL.]
CHARLES ELLIOT,	[SEAL.]
SAMUEL I. C. SWEEZY,	[SEAL.]
L. BRUNNER,	[SEAL.]
J. STOCK,	[SEAL.]
THADDEUS R. BROOKS.	[SEAL.]

STATE OF CALIFORNIA,
City and County of San Francisco, } ss.

On this second day of January, A. D. one thousand eight hundred and sixty-four, before me, P. B. Cornwall, a Notary Public in and for said city and county, duly commissioned and sworn, personally appeared the within named Earl Bartlett, Charles Elliot, Samuel I. C. Sweezy, L. Brunner, J. Stock, and Thaddeus R. Brooks, whose names are subscribed to the annexed instrument as parties thereto, personally known to me to be the individuals described in and who executed the said annexed instrument, and they each duly acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and affixed my [SEAL.] official seal, the day and year in this certificate first above written.

P. B. CORNWALL,
Notary Public.

Indorsed: Filed in the office of the County Clerk of the City and County of San Francisco, this second day of January, A. D. one thousand eight hundred and sixty-four.

WILLIAM LEOWY,
County Clerk.

By A. J. JEGHERS, Deputy Clerk.

OFFICE OF THE COUNTY CLERK
Of the City and County of San Francisco. }

{ U. S. Int. Rev.
Stamp, 5 cts.,
canceled. }

I, William Loewy, County Clerk of the City and County of San Francisco, State of California, and Clerk of the County Court thereof, do hereby certify the foregoing to be a full, true, and correct copy of the certificate of incorporation of the "Golden City Homestead Association" on file in my office.

Witness my hand and seal of said Court, this second day of January, A. D. one thousand eight hundred and sixty-four.

[SEAL.] WILLIAM LEOWY,
County Clerk.

By A. J. JEGHERS, Deputy Clerk.

STATE OF CALIFORNIA, }
Department of State. }

I, Thomas Beck, Secretary of State of the State of California, do hereby certify that I have compared the annexed copy of articles of incorporation of the "Golden City Homestead Association" with the original now on file in my office, and that the same is a correct transcript therefrom, and of the whole thereof.

Witness my hand, and the great seal of State, at office in Sacramento, California, the twenty-eighth day of January, A. D. [SEAL.] one thousand eight hundred and seventy-six.

THOMAS BECK,
Secretary of State.